

# **FAMILY CHILD CARE HOME REQUIREMENTS**

**Effective September 23, 2016**

North Carolina Department of Health and Human Services

Division of Child Development and Early Education



**CHAPTER 9 – FAMILY CHILD CARE HOME RULES**  
**(Amended Eff. September 23, 2016)**

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The North Carolina Department of Health and Human Services does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.



## **CHAPTER 9 - CHILD CARE RULES**

### **SECTION .0100 - DEFINITIONS**

#### **10A NCAC 09 .0101    RESERVED FOR FUTURE CODIFICATION**

#### **10A NCAC 09 .0102            DEFINITIONS**

The terms and phrases used in this Chapter are defined as follows except when the context of the rule requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (1) "Agency" as used in Section .2200 of this Chapter means Division of Child Development and Early Education, Department of Health and Human Services located at 820 South Boylan Avenue, Raleigh, North Carolina 27603.
- (2) "Appellant" means the person or persons who request a contested case hearing.
- (3) "Basic School-Age Care" training (BSAC training) means the training on the elements of quality afterschool care for school-age children, developed by the North Carolina State University Department of 4-H Youth Development and subsequently revised by the North Carolina School-age Quality Improvement Project.
- (4) "Child Care Program" means a single center or home, or a group of centers or homes, or both, that are operated by one owner or supervised by a common entity.
- (5) "Child care provider" as defined by G.S. 110-90.2(a)(2)a. and used in Section .2700 of this Chapter includes the following employees who have contact with the children in a child care program:
  - (a) facility directors;
  - (b) administrative staff;
  - (c) teachers;
  - (d) teachers' aides;
  - (e) cooks;
  - (f) maintenance personnel; and
  - (g) drivers.
- (6) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.
- (7) "Curriculum" means a curriculum that has been approved as set forth in these Rules by the NC Child Care Commission as comprehensive, evidenced-based, and with a reading component.
- (8) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (9) "Division" means the Division of Child Development and Early Education within the Department of Health and Human Services.
- (10) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- (11) "Early Childhood Environment Rating Scale - Revised Edition" (Harms, Clifford, and Cryer, 2005, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a

child care center, when the majority of children in the group are two and a half years old through five years old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at

[http://www.teacherscollegepress.com/assessment\\_materials.html](http://www.teacherscollegepress.com/assessment_materials.html). The cost of this scale in February 2015 is twenty-two dollars and ninety-five cents (\$22.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours. For the purposes of this Rule, "regular business hours" for the Division means 8 a.m. to 5 p.m. during weekdays, excluding state holidays.

- (12) "Experience working with school-aged children" means working with school-age children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.
- (13) "Family Child Care Environment Rating Scale – Revised Edition" (Harms, Cryer and Clifford, 2007, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by children in family child care homes to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at [http://www.teacherscollegepress.com/assessment\\_materials.html](http://www.teacherscollegepress.com/assessment_materials.html). The cost of this scale in February 2015 is twenty-two dollars and ninety-five cents (\$22.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (14) "First aid kit" is a collection of first aid supplies (such as bandages, tweezers, disposable nonporous gloves, micro shield or face mask, liquid soap, cold pack) for treatment of minor injuries or stabilization of major injuries.
- (15) "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and in this Chapter, using space the Division has identified for each group.
- (16) "Health care professional" means:
  - (a) a physician licensed in North Carolina;
  - (b) a nurse practitioner approved to practice in North Carolina; or
  - (c) a licensed physician assistant.
- (17) "Household member" means a person who resides in a family home as evidenced by factors including maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.
- (18) "If weather conditions permit" means:
  - (a) temperatures that fall within the guidelines developed by the Iowa Department of Public Health and specified on the Child Care Weather Watch chart. These guidelines shall be used when determining appropriate weather conditions for taking children outside for outdoor learning activities and playtime. This chart may be downloaded free of charge from



- <http://www.idph.state.ia.us/hcci/common/pdf/weatherwatch.pdf>, and is incorporated by reference and includes subsequent editions and amendments;
- (b) following the air quality standards as set out in 15A NCAC 18A .2832(d). The Air Quality Color Guide can be found on the Division's web site at <https://xapps.ncdenr.org/aq/ForecastCenter> or call 1-888-RU4NCAIR (1-888-784-6224); and
  - (c) no active precipitation. Caregivers may choose to go outdoors when there is active precipitation if children have appropriate clothing such as rain boots and rain coats, or if they are under a covered area.
- (19) "Infant/Toddler Environment Rating Scale - Revised Edition" (Harms, Cryer, and Clifford, 2003, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are younger than thirty months old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at [http://www.teacherscollegepress.com/assessment\\_materials.html](http://www.teacherscollegepress.com/assessment_materials.html). The cost of this scale in February 2015 is twenty-two dollars and ninety-five cents (\$22.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (20) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation for the Division of Child Development and Early Education for caregivers of children ages 12 months and younger. Information regarding trainer and training availability can be found on the Division's website at [http://ncchildcare.nc.gov/providers/pv\\_itssidsproject.asp](http://ncchildcare.nc.gov/providers/pv_itssidsproject.asp).
- (21) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a child care facility. The owner of a facility is the licensee.
- (22) "Lockdown drill" means an emergency safety procedure in which occupants of the facility remain in a locked indoor space and is used when emergency personnel or law enforcement determine a dangerous person is in the vicinity.
- (23) "North Carolina Early Educator Certification (certification)" is an acknowledgement of an individual's verified level of educational achievement based on a standardized scale. The North Carolina Institute for Child Development Professionals certifies individuals and assigns a certification level on two scales:
- (a) the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010; or
  - (b) the School Age Professional Scale (SA Scale) in effect as of May 19, 2010.

Each scale reflects the amount of education earned in the content area pertinent to the ages of children served. The ECE Scale is designed for

individuals working with or on behalf of children ages birth to five. The SA Scale is designed for individuals working with or on behalf of children ages 5 to 12 who are served in school age care settings. Information on the voluntary certification process can be found on the North Carolina Institute for Child Development Professionals website at <http://ncicdp.org/certification-licensure/eec-overview/>.

- (24) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of required early childhood coursework taken at any NC Community College. Other post secondary curriculum coursework shall be approved as equivalent if the Division determines that the content of the other post secondary curriculum coursework offered is substantially equivalent to the NC Early Childhood Credential Coursework. A copy of the North Carolina Early Childhood Credential requirements is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection or copying at no charge during regular business hours. This information can be found on the Division's website at <http://ncchildcare.nc.gov/providers/credent.asp>.
- (25) "Owner" means any person with a five percent or greater equity interest in a child care facility; however, stockholders of corporations who own child care facilities are not subject to mandatory criminal history checks pursuant to G.S. 110-90.2 unless they are a child care provider.
- (26) "Parent" means a child's parent, legal guardian, or full-time custodian.
- (27) "Part-time care" means a child care arrangement where children attend on a regular schedule but on less than a full-time basis.
- (28) "Passageway" means a hall or corridor.
- (29) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.
- (30) "Preschooler" or "preschool-age child" means any child who does not fit the definition of school-age child in this Rule.
- (31) "School-Age Care Environment Rating Scale" (Harms, Jacobs, and White, 1996, published by Teachers College Press) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of the children in the group are older than five years, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at [http://www.teacherscollegepress.com/assessment\\_materials.html](http://www.teacherscollegepress.com/assessment_materials.html). The cost of this scale in February 2015 is twenty-two dollars and ninety-five cents (\$22.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (32) "School-age child" means any child who is attending or who has attended a public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.
- (33) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).
- (34) "Section" means Division of Child Development and Early Education.

- (35) "Shelter-in-Place drill" means staying in place to take shelter rather than trying to evacuate. It involves selecting a small interior room, with no or few windows, used when emergency personnel or law enforcement determine there is an environmental or weather related threat.
- (36) "Substitute" means any person who assumes the duties of a staff person for a time period not to exceed two consecutive months.
- (37) "Track-Out Program" means any child care provided to school-age children when they are out of school on a year-round school calendar.
- (38) "Volunteer" means a person who works in a child care facility and is not monetarily compensated by the facility.

*History Note: Authority G.S. 110-85; 110-88; 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. April 1, 1992; October 1, 1991; October 1, 1990; November 1, 1989;*

*Temporary Amendment Eff. January 1, 1996;*

*Amended Eff. March 1, 2015; May 1, 2013; September 1, 2012; July 3, 2012; July 1, 2012; November 1, 2007; May 2006; May 1, 2004; April 1, 2003; July 1, 2000; April 1, 1999; July 1, 1998; April 1, 1997.*

## **SECTION .0400 - ISSUANCE OF PROVISIONAL AND TEMPORARY LICENSES**

### **10A NCAC 09 .0401 PROVISIONAL LICENSES FOR FACILITIES**

(a) A provisional license may be issued in accordance with the provisions of G.S. 110-88(6) for any period of time not to exceed twelve consecutive months for any of the following reasons:

- (1) To allow a specific time period for correcting a violation of the building, fire, or sanitation requirements, provided that the appropriate inspector documents that the violation is not hazardous to the health or safety of the children but nevertheless necessitates a provisional classification until corrected.
  - (2) To allow a specific time period for the facility to comply fully with all licensing requirements other than building, fire, or sanitation, and to demonstrate that compliance will be maintained, provided that conditions at the facility are not hazardous to the health or safety of the children or staff.
  - (3) To allow time for the applicant or licensee to obtain a declaratory ruling pursuant to Section .2000 of this Subchapter.
  - (4) As a possible administrative action for substantiation of child abuse or neglect.
- (b) The provisional license may be issued upon the Division's determination that the applicant or licensee is making a reasonable effort to conform to such requirements.
- (c) The provisional license and the document describing the reasons for its issuance shall be posted in a prominent place in the facility that parents are able to view daily.
- (d) A licensee may obtain an administrative hearing on the issuance of a provisional license in accordance with Section .2200 of this Chapter.

*History Note: Authority G.S. 110-88(6); 110-99; 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. July 1, 1998; April 1, 1992; August 1, 1990; July 1, 1988; January 1, 1987.*

### **10A NCAC 09 .0402 RESERVED FOR FUTURE CODIFICATION**

### **10A NCAC 09 .0403 TEMPORARY LICENSES FOR CENTERS**

(a) A temporary license may be issued in accordance with the provisions of G.S. 110-88(10) to the operator opening a new center or to the operator of a previously licensed center when a change in ownership or location occurs provided:

- (1) the operator applied for a license, pursuant to Section .0300, or Rule .0204(a) or (b) of this Subchapter prior to the change in status; and
  - (2) the center has sufficient equipment and materials to operate for the number of children enrolled.
- (b) The temporary license shall be posted in a prominent place in the center that parents are able to view daily.
- (c) The temporary license shall expire after six months, or upon the issuance of a license or provisional license to the operator, whichever is earlier.
- (d) An operator may obtain an administrative hearing on the denial of a temporary license in accordance with Section .2200 of this Subchapter.

*History Note: Authority G.S. 110-88(10); 110-99; 143B-168.3;*

*Eff. July 1, 1988;*  
*Amended Eff. July 1, 1998; April 1, 1992; November 1, 1989.*

## **SECTION .1700 –FAMILY CHILD CARE HOME REQUIREMENTS**

### **10A NCAC 09 .1701 GENERAL PROVISIONS RELATED TO LICENSURE OF HOMES**

(a) All family child care homes shall comply with the standards for licensure set forth in this Section. A one- star rated license shall be issued to a family child care home operator who complies with the minimum standards for a license contained in this Section and G.S. 110-91.

(b) An individual who provides care for five hours or more in a week during planned absences of the operator shall be at least 21 years old, have a high school diploma or GED, have completed a First Aid and cardiopulmonary resuscitation (CPR) course as described in Rule .1705, Subparagraphs (a)(3), and (a)(4) of this Section, have completed a health questionnaire, have proof of negative results of a tuberculosis test completed within 12 months prior to the first day of providing care, submit criminal records check forms as required in 10A NCAC 09 .2703 and annual in-service training as described in Rule .1705(b)(5) of this Section. While the individual provides care at a family child care home, copies of required information shall be on file in the home available for review by the Division.

(c) An individual who provides care for less than five hours in a week during planned absences of the operator shall meet all requirements listed in Paragraph (b) of this Rule, except the requirements for annual in-service training and a high school diploma or GED. The individual shall be literate.

(d) The operator shall conduct 16 hours of orientation with any caregivers, including substitute providers, and volunteers, who are providing care prior to the individual being left alone with the children as follows:

- (1) recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301;
- (2) review of the home's operational policies, including the written plan of care, safe sleep policy, and the Emergency Preparedness and Response Plan;
- (3) adequate supervision of children in accordance with Rule .1718(a) of this Section;
- (4) information regarding prevention of shaken baby syndrome and abusive head trauma;
- (5) prevention and control of infectious diseases, including immunization;
- (6) firsthand observation of the home's daily operations;
- (7) instruction regarding assigned duties;
- (8) instruction in the maintenance of a safe and healthy environment;
- (9) instruction in the administration of medication to children in accordance with Rule .1720(c) of this Section;
- (10) review of the home's purposes and goals;
- (11) review of G.S. 110, Article 7 and this Chapter;
- (12) an explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource;
- (13) an explanation of the individual's obligation to cooperate with representatives of State and local government agencies during visits and investigations;
- (14) completion of CPR and First Aid training; and
- (15) prevention of and response to emergencies due to food and allergic reactions.

The operator and individual providing care shall sign and date a statement that attests that this review was completed. This statement shall be kept on file in the home available for review by the Division.

(e) An individual who provides care during unplanned absences of the operator, such as medical emergencies, shall be at least 18 years old and submit criminal records check forms as required in 10A NCAC 09 .2703(j). The children of an emergency caregiver shall not be counted in the licensed capacity for the first day of the emergency caregiver's service.

(f) The provisions of G.S. 110-90.2 that exclude persons with certain criminal records or personal habits or behavior which may be harmful to children from operating or being employed in a family child care home shall also apply to any person on the premises with the operator's permission when the children are present. This exclusion shall not apply to parents or other persons who enter the home only for the purpose of performing parental responsibilities; nor does it include persons who enter the home for the purpose of conducting business with the operator and who are not left alone with the children.

(g) The parent of a child enrolled in any family child care home subject to regulation under G.S. 110, Article 7 shall be allowed unlimited access to the home during its operating hours for the purposes of contacting the child or evaluating the home and the care provided by the operator. The parent shall notify the operator of his or her presence upon entering the premises.

(h) An operator licensed to care for children overnight may sleep during the nighttime hours when all the children are asleep, provided:

- (1) the operator and the children in care, excluding the operator's own children, are on ground level;
- (2) the operator can hear and respond to the children; and
- (3) a battery operated smoke detector or an electrically operated (with a battery backup) smoke detector is located in each room where children are sleeping.

(i) Each operator shall develop and adopt a written plan of care for completing routine tasks (including running errands, meeting family and personal demands, and attending classes) to ensure that the tasks shall not interfere with the care of children during hours of operation. The plan shall:

- (1) specify typical times for completing routine tasks and include those times on the written schedule, or specify that routine tasks will not occur during hours of operation;
- (2) specify the names of any individuals, such as additional caregivers or substitutes, who will be responsible for the care of children when the operator is attending to routine tasks;
- (3) specify how the operator shall maintain compliance with transportation requirements specified in 10A NCAC 09 .1723 if children are transported;
- (4) specify how parents will be notified when children accompany the operator off premises for routine tasks not specified on the written schedule;
- (5) specify any other steps the operator shall take to ensure routine tasks will not interfere with the care of children; and
- (6) be provided and explained to parents of children in care on or before the first day the child attends the home. Parents shall sign a statement acknowledging the receipt and explanation of the plan. Parents shall also give written permission for their child to be transported by the operator for specific routine tasks that are included on the written schedule. The acknowledgment and written parental

permission shall be retained in the child's record as long as the child is enrolled at the home and a copy of each document shall be maintained on file for review by the Division.

(j) If the operator amends the written plan, the operator shall give written notice of the amendment to parents of all enrolled children at least 30 days before the amended plan is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The operator shall retain the acknowledgement in the child's records as long as the child is enrolled in the home and a copy shall be maintained on file for review by the Division.

*History Note: Authority G.S. 110-85(1); 110-88(1); 110-91; 110-105; 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. July 1, 2015; May 1, 2013; November 1, 2006; April 1, 2003; April 1, 1999; July 1, 1998; January 1, 1991; January 1, 1990; July 1, 1988; January 1, 1987;*

*Temporary Amendment Eff. September 23, 2016.*

#### **10A NCAC 09 .1702 APPLICATION FOR A LICENSE FOR A FAMILY CHILD CARE HOME**

(a) Any person who plans to operate a family child care home (FCCH) shall apply for a license using a form provided by the Division. Only one licensed family child care home shall operate at the location address of any home. The form can be found on the Division's website at [http://ncchildcare.nc.gov/pdf\\_forms/FacilityProfileApp.pdf](http://ncchildcare.nc.gov/pdf_forms/FacilityProfileApp.pdf).

(b) The applicant shall ensure that the family child care home complies with the following requirements:

- (1) single-wide manufactured homes are limited to a maximum of three preschool-age children (no more than two may be two years of age or less) and two school-age children;
- (2) all children are kept on the ground level with an exit at grade;
- (3) all homes are equipped with an electrically operated (with a battery backup) smoke detector, or one electrically operated and one battery operated smoke detector located next to each other;
- (4) all homes are provided with at least one five pound 2-A: 10-B: C type extinguisher for every 2,500 square feet of floor area;
- (5) heating appliances shall be installed and maintained according to NC Building Code Chapter 603.5.3;
- (6) all indoor areas used by children are heated when the temperature is below 65 degrees and ventilated when the temperature is above 85 degrees; and
- (7) pipes or radiators that are hot enough to be capable of burning children and are accessible to the children are covered or insulated.

(c) The applicant shall also submit supporting documentation with the application for a license to the Division. The supporting documentation shall include:

- (1) a copy of a non-expired qualification letter in accordance with 10A NCAC 09 .2702;
- (2) a copy of documentation of completion of a First Aid and cardiopulmonary resuscitation (CPR) course;



- (3) a copy of documentation of completion of ITS-SIDS training;
  - (4) proof of negative results of the applicant's tuberculosis test completed within the past 12 months;
  - (5) a completed health questionnaire; a copy of the health questions can be found on the Division's website at [http://ncchildcare.nc.gov/pdf\\_forms/emergency\\_information\\_health\\_questionnaire\\_i.pdf](http://ncchildcare.nc.gov/pdf_forms/emergency_information_health_questionnaire_i.pdf);
  - (6) a copy of non-expired pet vaccinations for any pet in the home;
  - (7) if a home has a private well, a negative well water bacteriological analysis;
  - (8) copies of any inspections required by local ordinances; and
  - (9) any other documentation required by the Division according to the rules in this Section to support the issuance of a license.
- (d) Upon receipt of a complete application and supporting documentation, a Division representative shall make an announced visit to each home. An announced visit is not required by a Division representative if the applicant is subject to the circumstances in Paragraph (g) of this Rule. The issuance of a license applies as follows:
- (1) if all applicable requirements of G.S. 110, Article 7 and this Section are met, a license shall be issued;
  - (2) if the applicable requirements of G.S. 110, Article 7 and this Section are not met, the Division representative shall establish with the applicant a time period for the home to achieve compliance. If the Division representative determines that all applicable requirements of G.S. 110, Article 7 and this Section are met within the established time period, a license shall be issued; or
  - (3) if all applicable requirements of G.S. 110, Article 7 and this Section are not met or cannot be met within the established time, the Division shall deny the application.
- (e) The Division shall allow the applicant to operate prior to the Division representative's visit described in Paragraph (e) of this Rule when the applicant is currently licensed as a family child care home operator, needs to relocate, and notifies the Division of the relocation, and the Division representative is unable to visit before the relocation occurs. An applicant shall not operate until he or she has received from the Division either temporary permission to operate or a license.
- (f) The Secretary may deny the application for the license under the following circumstances:
- (1) if any child care facility license previously held by the applicant has been denied, revoked, or summarily suspended by the Division;
  - (2) if the Division initiated denial, revocation, or summary suspension proceedings against any child care facility license previously held by the applicant and the applicant voluntarily relinquished the license;
  - (3) during the pendency of an appeal of a denial, revocation, or summary suspension of any other child care facility license held by the applicant;
  - (4) if the Division determines that the applicant has a relationship with an operator or former operator who previously held a license under an administrative action described in Subparagraphs (g)(1), (2), or (3) of this Rule. As used in this Rule, an applicant has a relationship with a former operator if the former operator would be involved with the applicant's child care facility in one or more of the following ways:

- (A) would participate in the administration or operation of the facility;
  - (B) has a financial interest in the operation of the facility;
  - (C) provides care to the children at the facility;
  - (D) resides in the facility; or
  - (E) would be on the facility's board of directors, be a partner of the corporation, or otherwise have responsibility for the administration of the business;
  - (5) based on the applicant's previous non-compliance as an operator with the requirements of G.S. 110, Article 7 or this Chapter;
  - (6) if abuse, neglect, or child maltreatment has been substantiated against the applicant or a household member; or
  - (7) if the applicant is a disqualified child care provider or has a disqualified household member residing in the FCCH.
- (g) In determining whether denial of the application for a license is warranted pursuant to Paragraph (g) of this Rule, the Division shall consider:
- (1) any documentation provided by the applicant that describes the steps the applicant will take to prevent reoccurrence of noncompliance issues that led to any prior administrative action taken against a license previously held by the applicant;
  - (2) training certificates or original transcripts for any coursework from a nationally recognized regionally accredited institution of higher learning related to providing child care, and that was taken subsequent to any prior administrative action against a license previously held by the applicant. "Nationally recognized" means that every state in this nation acknowledges the validity of the coursework taken at higher education institutions that meet the requirements of one of the accrediting bodies;
  - (3) proof of employment in a licensed child care facility and references from the administrator or licensee of the child care facility regarding work performance;
  - (4) documentation of collaboration or mentorship with a licensed child care provider to obtain additional knowledge and experience related to operation of a child care facility; and
  - (5) documentation explaining relationships with persons meeting the criteria listed in Subparagraph (g)(4) of this Rule.
- (h) The license shall not be bought, sold, or transferred from one individual to another.
- (i) The license shall be valid only for the location address listed on it.
- (j) The license shall be returned to the Division in the event of termination, revocation, suspension, or summary suspension.
- (k) A licensee shall notify the Division if a change occurs that affects the information shown on the license.

*History Note: Authority G.S. 110-86; 110-88(5); 110-91; 110-93; 110-99; 110-105.3; 110-105.5; 143B-168.3;*  
*Eff. January 1, 1986;*  
*Amended Eff. March 1, 2014; December 1, 2012; August 1, 2011; July 1, 2010;*  
*April 1, 2003; April 1, 2001; July 1, 1998; January 1, 1991; November 1, 1989;*  
*January 1, 1987;*  
*Temporary Amendment Eff. September 23, 2016.*

### **10A NCAC 09 .1703 CAREGIVER INTERACTIONS**

Caregivers shall relate to children in positive ways by helping them feel welcome and comfortable, treating them with respect, listening to what they say, responding to them with acceptance and appreciation and participating in many activities with the children. For example, caregivers shall:

- (1) Make eye contact when speaking to a child;
- (2) Actively engage children in conversation to share experiences, ideas and opinions;
- (3) Help children develop problem-solving skills; and
- (4) Facilitate learning by providing positive reinforcement, encouraging efforts and recognizing accomplishments.

*History Note: Authority G.S. 110-85; 110-91(8),(11); 143B-168.3;  
Eff. July 1, 2010.*

### **10A NCAC 09 .1704 RESERVED FOR FUTURE CODIFICATION**

### **10A NCAC 09 .1705 HEALTH AND TRAINING REQUIREMENTS FOR FAMILY CHILD CARE HOME OPERATORS**

(a) Prior to receiving a license, each family child care home operator shall:

- (1) Complete and keep on file a health questionnaire that attests to the operator's physical and emotional ability to care for children. The Division may require a written statement or medical examination report signed by a licensed physician or other authorized health professional if there is reason to believe that the operator's health may adversely affect the care of the children based upon observations and complaints made to the Division.
- (2) Obtain written proof that he or she is free of active tuberculosis. The results indicating the individual is free of active tuberculosis shall be obtained within 12 months prior to applying for a license.
- (3) Successfully complete a basic First Aid course appropriate for the ages of children in care within 12 months prior to applying for a license. Successful completion shall be evidenced by a certificate or card from an approved training organization. First Aid training shall be renewed on or before expiration of the certification. Verification of completion of this course from an approved training organization shall be maintained in the operator's file. The Division shall post a list of approved training organizations on its website at [http://ncchildcare.nc.gov/providers/pv\\_sn2\\_ov\\_pd.asp](http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp).
- (4) Successfully complete a course by the American Heart Association or the American Red Cross or other organizations approved by the Division in cardiopulmonary resuscitation (CPR) appropriate for the ages of children in care within 12 months prior to applying for a license. Other organizations shall be approved if the Division determines that the courses offered are substantially equivalent to those offered by the American Red Cross. "Successfully completed" is defined as demonstrating competency, as evaluated by the instructor, in performing CPR. Documentation of successful completion of the course from an approved training organization shall be on file in the home. The Division shall

post a list of approved training organizations on its website at [http://ncchildcare.nc.gov/providers/pv\\_sn2\\_ov\\_pd.asp](http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp).

- (5) Complete a pre-licensing orientation that will be scheduled by a representative of the Division upon receipt of the application. Training required pursuant to this Rule shall not be counted toward annual on-going training requirements. Training topics for orientation shall include:
    - (A) recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301;
    - (B) review of the home's operational policies, including the written plan of care, safe sleep policy, and the Emergency Preparedness and Response Plan;
    - (C) adequate supervision of children in accordance with Rule.1718(a) of this Section;
    - (D) information regarding prevention of shaken baby syndrome and abusive head trauma;
    - (E) prevention and control of infectious diseases, including immunization;
    - (F) first hand observation of the home's daily operations;
    - (G) instruction regarding assigned duties;
    - (H) instruction in the maintenance of a safe and healthy environment;
    - (I) instruction in the administration of medication to children in accordance with Rule.1720(c) of this Section;
    - (J) review of the child care licensing law and rules set forth in G.S. 110, Article 7 and this Chapter;
    - (K) an explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource;
    - (L) an explanation of the operator's obligation to cooperate with representatives of State and local government agencies during visits and investigations; and
    - (M) prevention of and response to emergencies due to food and allergic reactions. Documentation of the pre-licensing orientation shall be provided by the Division and kept on file in the home.
  - (6) Complete ITS-SIDS training if planning to be licensed to care for infants ages 12 months and younger.
- (b) After receiving a license, an operator shall:
- (1) Update the health questionnaire set forth in Subparagraph (a)(1) of this Rule annually. The Division may require the operator to obtain written proof that he or she is free of active tuberculosis.
  - (2) Complete a First Aid course as set forth in Subparagraph (a)(3) of this Rule. First Aid training shall be renewed on or before expiration of the certification.
  - (3) Successfully complete a CPR course as set forth in Subparagraph (a)(4) of this Rule. CPR training shall be renewed on or before the expiration of the certification.
  - (4) If licensed to care for infants ages 12 months and younger, complete ITS-SIDS training every three years from the completion of previous ITS-SIDS training. Completion of ITS-SIDS training may be included once every three years in the

number of hours needed to meet the annual in-service training requirement in Paragraph (b)(5) of this Rule.

- (5) Complete 12 clock hours of annual in-service training in the topic areas required by G.S. 110-91(11), except that persons with at least 10 years work experience as a caregiver in a child care arrangement regulated by the Division of Child Development and Early Education shall complete eight clock hours of annual in-service training. Only training that has been approved by the Division as referenced in Rule .0708 of this Chapter shall count toward the required hours of annual in-service training. The operator shall maintain a record of annual in-service training activities in which he or she has participated. The record shall include the subject matter, the topic area in G.S. 110-91(11) covered, the name of the training provider or organization, the date training was provided and the number of hours of training completed. First Aid training may be counted no more than once every three years. Coursework applicable to job responsibilities taken at a regionally accredited college or university may be counted toward ongoing training requirements. The operator shall maintain a record of training activities, including copies of training certificates or official documentation provided by the trainer. That record shall include the subject matter, topic area, training provider, date provided, hours, and name of staff who completed the training. This documentation shall be on file.
- (6) Within one year of the effective date of the license, complete the Emergency Preparedness and Response in Child Care Training. For the purposes of this Rule, the Emergency Preparedness and Response in Child Care is a training approved by the Division on creating an Emergency Preparedness and Response Plan and practicing, responding to, and recovering from emergencies in child care facilities. Existing operators have two years as of the effective date of this Rule to complete the Emergency Preparedness and Response in Child Care training. Documentation of completion of the training shall be maintained in the operator's personnel file.
- (7) Upon completion of the Emergency Preparedness and Response in Child Care Training, develop the Emergency Preparedness and Response Plan. The Emergency Preparedness and Response Plan means a written plan that addresses how a child care facility will respond to both natural and man-made disasters, such as fire, tornado, flood, power failures, chemical spills, bomb threats, earthquakes, blizzards, nuclear disaster, or a dangerous person in the vicinity, to ensure the safety and protection of the children, and additional caregivers. This Plan must be on a template provided by the Division of Emergency Management and is available at <https://rmp.nc.gov/portal/#>, completed within four months of completion of the Emergency Preparedness and Response in Child Care Training, and available for review by the Division. The Plan shall include the following:
  - (A) written procedures for accounting for all in attendance, including the location of the children, staff, volunteer and visitor attendance lists and the name of the person(s) responsible for bringing the lists in the event of an emergency;
  - (B) a description for how and when children shall be transported;

- (C) methods for communicating with parents and emergency personnel or law enforcement;
  - (D) a description of how children's nutritional and health needs will be met;
  - (E) the relocation and reunification process;
  - (F) emergency telephone numbers;
  - (G) evacuation diagrams showing how the operator, family members, children and any other individuals who may be present will evacuate during an emergency;
  - (H) the date of the last revision of the plan;
  - (I) specific considerations for non-mobile children and children with special needs, if applicable; and
  - (J) the location of the Ready to Go File. A "Ready to Go File" means a collection of information on children, additional caregivers, and the facility, to utilize, if an evacuation occurs. The file shall include, a copy of the Emergency Preparedness and Response Plan, contact information for individuals to pick-up children, each child's application for child care, medication authorizations and instructions, any action plans for children with special health care needs, a list of any known food allergies of children and additional caregivers, additional caregivers' contact information, Incident Report forms, an area map, and emergency telephone numbers.
- (8) Review the Emergency Preparedness and Response Plan annually or when information in the plan changes, to ensure all information is current.
  - (9) Review the Family Child Care Home's Emergency Preparedness and Response Plan with additional caregivers during orientation and on an annual basis; and
  - (10) The operator shall complete "Recognizing and Responding to Suspicions of Child Maltreatment" training within two months of licensure and every three years thereafter. Completion of "Recognizing and Responding to Suspicions of Child Maltreatment" training shall be included once every three years in the number of hours needed to meet ongoing training requirements in Subparagraph (b)(5) of this Rule. "Recognizing and Responding to Suspicions of Child Maltreatment" training is available at <https://www.preventchildabusenc.org/>.

*History Note: Authority G.S. 110-88; 110-91; 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. July 1, 2015; July 1, 2008; May 1, 2004; July 1, 1998; November 1, 1989; January 1, 1987;*

*Temporary Amendment Eff. September 23, 2016.*

## **10A NCAC 09 .1706 NUTRITION STANDARDS**

(a) Meals and snacks served to children in a Family Child Care Home shall comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food, number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in Child Care Programs are incorporated by

reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available free of charge from the Division at the address in Rule .0102(1) of this Chapter.

(b) When children bring their own food for meals and snacks to the program, if the food does not meet the nutritional requirements specified in Paragraph (a) of this Rule, the operator must provide the additional food necessary to meet those requirements unless the child's parent or guardian opts out of the supplemental food provided by the operator as set forth in G.S. 110-91(2) h.1. A statement acknowledging the parental decision to opt out of the supplemental food provided by the operator signed by the child's parent or guardian shall be on file at the home. Opting out means that the operator will not provide any food or drink so long as the child's parent or guardian provides all meals, snacks, and drinks scheduled to be served at the program's designated times. If the child's parent or guardian has opted out but does not provide all food and drink for the child, the program shall provide supplemental food and drink as if the child's parent or guardian had not opted out of the supplemental food program.

(c) The food required by special diets for medical, religious or cultural reasons, may be provided by the operator or may be brought to the program by the parents. If the diet is prescribed by a health care professional, a statement signed by the health care professional shall be on file at the program and written instructions must be provided by the child's parent, health care professional or a licensed dietitian/nutritionist. If the diet is not prescribed by a health care professional, written instructions shall be provided by the child's parent and shall be on file at the program.

(d) Food that does not meet the nutritional requirements specified in Paragraph (a) of this Rule, such as cookies, chips, donuts; etc. shall be available only for special occasions such as holidays, birthdays and other celebrations.

(e) For children ages 24 months and older a meal or snack must be provided at least every four hours.

(f) The parent or health care professional of each child under 15 months of age shall provide the operator an individual written feeding schedule for the child. This schedule shall be followed at the home. This schedule shall include the child's name, be signed by the parent or health care professional, and be dated when received by the operator. Each infant's schedule shall be modified in consultation with the child's parent or health care professional to reflect changes in the child's needs as he or she develops.

(g) Parents shall be allowed to provide breast milk for their children. Accommodations for breastfeeding mothers are provided that include seating and an electrical outlet, in a place other than a bathroom, that is shielded from view by staff and the public, which may be used by mothers while they are breastfeeding or expressing milk.

(h) Each infant shall be held for bottle feeding until able to hold his or her own bottle. Bottles shall not be propped. Each child shall be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed.

(i) Any formula which is prepared by the operator shall be prepared according to the instructions on the formula package or label, or according to written instructions from the child's health care professional.

(j) Infants shall not be served juice in a bottle without a prescription or written statement on file from a health care professional or licensed dietitian/nutritionist.

(k) Drinking water must be freely available and offered to children on a frequent basis.

(l) When milk, milk products, or fruit juices are provided by the operator, only pasteurized products or products which have undergone an equivalent process to pasteurization shall be used.

(m) The operator will provide only the following beverages:

- (1) breast milk;
- (2) formula;
- (3) water;
- (4) unflavored whole milk, for children ages 12-24 months;
- (5) unflavored skim or lowfat milk for children two years old and older; or
- (6) 100 percent fruit juice, limited to 6 ounces per day.

*History Note: Authority G.S. 110-85; 110-91(2); 143B-168.3;  
Eff. December 1, 2012.*

**10A NCAC 09 .1707 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 09 .1708 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 09 .1709 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 09 .1710 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 09 .1711 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 09 .1712 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 09 .1713 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 09 .1714 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 09 .1715 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 09 .1716 FAILURE TO MAINTAIN REQUIREMENTS**

(a) If the Division determines that a family child care home operator fails to maintain compliance with the requirements for licensure, the Division may establish a reasonable time period to allow the operator to achieve compliance or recommend issuance of a provisional license in accordance with Rule .0401 of this Subchapter.

(b) If the operator fails to achieve compliance within the established time period, the Division may suspend, terminate, or revoke the license. The operator may appeal any such action pursuant to the provisions of G.S. 150B.

(c) The Division may recommend imposition of a civil penalty in accordance with the procedures set forth in Section .2200 of this Subchapter and according to the following schedules:

- (1) A civil penalty in an amount up to one thousand dollars (\$1,000.00) may be imposed when the Division has substantiation that a child was abused or neglected while in care in a family child care home.
- (2) A civil penalty in an amount up to two hundred dollars (\$200.00) may be imposed for the following violations:



- (A) Repeated incidents of exceeding the number of children allowed in a licensed family child care home;
  - (B) Repeated incidents where there has been a lack of supervision of the children; or
  - (C) Willful, repeated pattern of noncompliance with any requirement contained in this Subchapter or in the General Statutes.
- (3) A civil penalty in an amount up to one hundred dollars (\$100.00) may be imposed for the following violations:
- (A) Denial of entry to an authorized representative of the Division;
  - (B) Documented noncompliance with the number of children allowed in a licensed family child care home;
  - (C) Lack of supervision of the children in care; or
  - (D) Failure to comply with a corrective action plan designed by the Division to correct noncompliance with any applicable requirement in this Subchapter or in the General Statutes.

*History Note: Authority G.S. 110-86(3); 110-88(1),(5),(6a); 110-91; 110-98; 110-103.1; 110-105; 110-105.2; 110-106; 143B-168.3; 150B-23; Eff. January 1, 1986; Amended Eff. July 1, 1998; January 1, 1991; January 1, 1987.*

#### **10A NCAC 09 .1717 RESERVED FOR FUTURE CODIFICATION**

#### **10A NCAC 09 .1718 REQUIREMENTS FOR DAILY OPERATIONS**

(a) Children shall be adequately supervised at all times. "Adequate supervision" shall mean that:

- (1) For pre-school age children, the operator shall be positioned in the indoor and outdoor environment to maximize his or her ability to hear and see the children at all times and render immediate assistance;
- (2) For school-age children, the operator shall be positioned in the indoor and outdoor environment to maximize his or her ability to hear or see the children at all times and render immediate assistance;
- (3) The operator shall interact with the children while moving about the indoor or outdoor area; and
- (4) For children of all ages:
  - (i) the operator shall know where each child is located and be aware of children's activities at all times;
  - (ii) the operator shall provide supervision according to the individual age, needs, and capabilities of each child; and
  - (iii) all of the conditions in this Paragraph shall apply except when emergencies necessitate that adequate supervision is impossible for brief periods of time. Written documentation of emergencies stating the date, time, and reason shall be maintained and available for review by Division representatives upon request.

(b) The operator shall provide the following on a daily basis for all children in care:

- (1) Developmentally appropriate equipment and materials for a variety of outdoor activities that allow for vigorous play, large and small muscle development, and social, emotional, and intellectual development. For purposes of this Rule "vigorous" means done with force and energy. Each child shall have the opportunity for outdoor play each day that weather conditions permit. The operator shall provide space and time for vigorous indoor activities when children cannot play outdoors;
  - (2) An individual sleeping space such as a bed, crib, play pen, cot, mat, or sleeping bag with individual linens for each pre-school aged child in care for four hours or more, or for all children if overnight care is provided, to rest. Individual sleep requirements for infants aged 12 months or younger shall be provided for as specified in 10A NCAC 09 .1724(a)(2). Linens shall be changed weekly or whenever they become soiled or wet;
  - (3) For children who are sleeping or napping, the operator is not required to visually supervise them, but shall be able to hear and respond without delay to them. Children shall not sleep or nap in a room with a closed door between the children and the operator. The operator shall be on the same level of the home where children are sleeping or napping;
  - (4) A safe sleep environment by ensuring that when a child is sleeping or napping, bedding or other objects shall not be placed in a manner that covers the child's face;
  - (5) A separate area that can be supervised pursuant to Paragraph (a) of this Rule for children who become ill to the extent that they can no longer participate in routine group activities. Parents shall be notified immediately if their child becomes too sick to remain in care;
  - (6) The opportunity each day for each child under the age of 12 months to play while awake while positioned on his or her stomach;
  - (7) Developmentally appropriate activities as planned on a written schedule. Materials or equipment shall be available indoors and outdoors to support the activities listed on the written schedule. The written schedule shall:
    - (A) Show blocks of time assigned to types of activities and include periods of time for both active play and quiet play or rest;
    - (B) Be displayed in a place where parents are able to view it;
    - (C) Reflect daily opportunities for both free choice and guided activities;
    - (D) Include a minimum of one hour of outdoor play throughout the day, if weather conditions permit; and
    - (E) Include a daily gross motor activity that may occur indoors or outdoors.
- (c) When screen time, including videos, video games, and computer usage, is provided, it shall be:
- (1) Offered only as a free choice activity;
  - (2) Used to meet a developmental goal; and
  - (3) Limited to no more than two and a half hours per week for each child two years of age and older. Usage time periods may be extended for specific special events, projects, occasions such as a current event, homework, on-site computer classes, holiday, and birthday celebration. Screen time is prohibited for children under the age of two years. The operator shall offer alternate activities for children under the age of two years.

(d) Nothing contained in this Rule shall be construed to preclude a "qualified person with a disability," as defined by G.S. 168A-3(9), or a "qualified individual," as defined by the Americans With Disabilities Act at 42 U.S.C. 12111(8), from working in a licensed child care facility.

*History Note: Authority G.S. 110-85; 110-88; 110-91(2); 110-91(12);*

*Eff. July 1, 1998;*

*Amended Eff. May 1, 2016; December 1, 2012; July 1, 2010; March 1, 2006; May 1, 2004.*

## **10A NCAC 09 .1719 REQUIREMENTS FOR A SAFE INDOOR/OUTDOOR ENVIRONMENT**

(a) The operator of a family child care home shall provide a physically safe and healthy indoor and outdoor environment that meets the developmental needs of children in care, including but not limited to the following:

- (1) keep all areas used by the children, both indoors and outdoors, clean and orderly and free of items that are potentially hazardous to children. Potentially hazardous items includes power tools, nails, chemicals, propane stoves, lawn mowers, and gasoline or kerosene, whether or not intended for use by children, shall be stored in locked areas, removed from the premises, or otherwise inaccessible to children. This includes the removal of items that a child can swallow. In addition, loose nails or screws and splinters shall be removed on inside and outside equipment;
- (2) all corrosive agents, pesticides, bleaches, detergents, cleansers, polishes, any product that is under pressure in an aerosol dispenser, and any substance that may be hazardous to a child if ingested, inhaled, or handled shall be kept in its original container or in another labeled container, used according to the manufacturer's instructions, and stored in a locked area when not in use. Locked areas shall include those that are unlocked with a combination, electronic, or magnetic device, key, or equivalent locking device. Unlocking devices shall be kept out of the reach of a child and shall not be stored in the lock. Toxic substances shall be stored below or separate from medications and food. Any product not listed in this Paragraph of this Rule, that is labeled "keep out of reach of children" without any other warnings shall be kept inaccessible to children when not in use, but is not required to be kept in locked storage. The product shall be considered inaccessible to children when stored on a shelf or in an unlocked cabinet that is mounted a minimum vertical distance of five feet above the finished floor;
- (3) ensure potential bio-contaminants are stored in locked areas, or removed from the premises or otherwise inaccessible to children. For purposes of this Rule, a "bio-contaminant" includes bodily fluids, soiled diapers and wipes, and medical waste such as syringes;
- (4) store equipment and supplies such as lawn mowers, power tools, propane stoves, gasoline, kerosene, or nails so they are inaccessible to children;
- (5) ensure that all stationary outdoor equipment is anchored and is not installed over concrete or asphalt. Footings that anchor the equipment shall not be exposed;
- (6) mount electric fans out of the reach of children or have a mesh guard on each fan;
- (7) cover all electrical outlets not in use and remove cracked, or frayed cords in occupied outlets;

- (8) ensure that, for appliances with heating elements, such as bottle warmers, crock pots, irons, coffee pots, or curling irons, neither the appliance nor any cord, is accessible to preschool children;
  - (9) stairs with more than two steps that are used by the children shall be railed. Indoor stairs with more than two steps shall be made inaccessible to children in care who are two years old or younger; and
  - (10) store all combustible materials that may create a fire hazard.
- (b) Prior to enrollment of children in a family child care home, and before new animals that will be in the home come into the family child care home, a parent of each child must sign a form acknowledging the type of animal and where the animal will be during operating hours. This documentation shall be maintained in each child's file.

*History Note: Authority G.S. 110-85; 110-88; 110-91(3),(4),(5),(6);  
 Eff. July 1, 1998;  
 Amended Eff. May 1, 2012; April 1, 2001;  
 Temporary Amendment Eff. September 23, 2016.*

#### **10A NCAC 09 .1720 SAFETY, MEDICATION, AND SANITATION REQUIREMENTS**

- (a) To assure the safety of children in care, the operator shall:
- (1) empty firearms of ammunition and keep both in separate, locked storage;
  - (2) keep items used for starting fires, such as matches and lighters, out of the children's reach;
  - (3) keep all medicines in locked storage;
  - (4) keep hazardous cleaning supplies and other items that might be poisonous, e.g., toxic plants, out of reach or in locked storage when children are in care;
  - (5) keep first aid supplies in a place accessible to the operator;
  - (6) keep tobacco products out of reach or in locked storage when children are in care;
  - (7) ensure the equipment and toys are in good repair and are developmentally appropriate for the children in care;
  - (8) have a working telephone within the family child care home. Telephone numbers for the fire department, law enforcement office, emergency medical service, and poison control center shall be posted near the telephone;
  - (9) have access to a means of transportation that is always available for emergency situations;
  - (10) be able to recognize common symptoms of illnesses;
  - (11) conduct a monthly fire drill; and
  - (12) conduct a "shelter in place drill" or "lockdown drill" as defined in 10A NCAC 09 .0102 at least every three months.
- (b) The operator may provide care for a mildly ill child who has a Fahrenheit temperature of less than 100 degrees axillary or 101 degrees orally and who remains capable of participating in routine group activities; provided the child does not:
- (1) have the sudden onset of diarrhea characterized by an increased number of bowel movements compared to the child's normal pattern and with increased stool water;
  - (2) have two or more episodes of vomiting within a 12 hour period;
  - (3) have a red eye with white or yellow eye discharge until 24 hours after treatment;
  - (4) have scabies or lice;
  - (5) have known chicken pox or a rash suggestive of chicken pox;

- (6) have tuberculosis, until a health professional states that the child is not infectious;
  - (7) have strep throat, until 24 hours after treatment has started;
  - (8) have pertussis, until five days after appropriate antibiotic treatment;
  - (9) have hepatitis A virus infection, until one week after onset of illness or jaundice;
  - (10) have impetigo, until 24 hours after treatment; or
  - (11) have a physician's or other health professional's written order that the child be separated from other children.
- (c) The following provisions apply to the administration of medication in family child care homes:
- (1) No prescription or over-the-counter medication and no topical, non-medical ointment, repellent, lotion, cream or powder shall be administered to any child:
    - (A) without written authorization from the child's parent;
    - (B) without written instructions from the child's parent, physician or other health professional;
    - (C) in any manner not authorized by the child's parent, physician or other health professional;
    - (D) after its expiration date; or
    - (E) for non-medical reasons, such as to induce sleep.
  - (2) Prescribed medications:
    - (A) shall be stored in the original containers in which they were dispensed with the pharmacy labels specifying:
      - (i) the child's name;
      - (ii) the name of the medication or the prescription number;
      - (iii) the amount and frequency of dosage;
      - (iv) the name of the prescribing physician or other health professional; and
      - (v) the date the prescription was filled; or
    - (B) if pharmaceutical samples, shall be stored in the manufacturer's original packaging, shall be labeled with the child's name, and shall be accompanied by written instructions specifying:
      - (i) the child's name;
      - (ii) the names of the medication;
      - (iii) the amount and frequency of dosage;
      - (iv) the signature of the prescribing physician or other health professional; and
      - (v) the date the instructions were signed by the physician or other health professional; and
    - (C) shall be administered only to the child for whom they were prescribed.
  - (3) A parent's written authorization for the administration of a prescription medication described in Paragraph (c)(2) of this Rule shall be valid for the length of time the medication is prescribed to be taken.
  - (4) Over-the-counter medications, such as cough syrup, decongestant, acetaminophen, ibuprofen, topical antibiotic cream for abrasions, or medication for intestinal disorders shall be stored in the manufacturer's original packaging on which the child's name is written or labeled and shall be accompanied by written instructions specifying:

- (A) the child's name;
  - (B) the names of the authorized over-the-counter medication;
  - (C) the amount and frequency of the dosages;
  - (D) the signature of the parent, physician or other health professional; and
  - (E) the date the instructions were signed by the parent, physician or other health professional. The permission to administer over-the-counter medications is valid for up to 30 days at a time, except as allowed in Subparagraphs (c)(6), (7), (8), and (9) of this Rule. Over-the-counter medications shall not be administered on an "as needed" basis, other than as allowed in Subparagraphs (c)(6), (7), (8), and (9) of this Rule.
- (5) When questions arise concerning whether any medication should be administered to a child, the caregiver may decline to administer the medication without signed, written dosage instructions from a licensed physician or authorized health professional.
- (6) A parent may give a caregiver standing authorization for up to six months to administer prescription or over-the-counter medication to a child, when needed, for chronic medical conditions and for allergic reactions. The authorization shall be in writing and shall contain:
- (A) the child's name;
  - (B) the subject medical conditions or allergic reactions;
  - (C) the names of the authorized over-the-counter medications;
  - (D) the criteria for the administration of the medication;
  - (E) the amount and frequency of the dosages;
  - (F) the manner in which the medication shall be administered;
  - (G) the signature of the parent;
  - (H) the date the authorization was signed by the parent; and
  - (I) the length of time the authorization is valid, if less than six months.
- (7) A parent may give a caregiver standing authorization for up to 12 months to apply over-the-counter, topical ointments, topical teething ointment or gel, insect repellents, lotions, creams, and powders --- such as sunscreen, diapering creams, baby lotion, and baby powder --- to a child, when needed. The authorization shall be in writing and shall contain:
- (A) the child's name;
  - (B) the names of the authorized ointments, repellents, lotions, creams, and powders;
  - (C) the criteria for the administration of the ointments, repellents, lotions, creams, and powders;
  - (D) the manner in which the ointments, repellents, lotions, creams, and powders shall be applied;
  - (E) the signature of the parent;
  - (F) the date the authorization was signed by the parent; and
  - (G) the length of time the authorization is valid, if less than 12 months.
- (8) A parent may give a caregiver standing authorization to administer a single weight-appropriate dose of acetaminophen to a child in the event the child has a fever and a parent cannot be reached. The authorization shall be in writing and shall contain:

- (A) the child's name;
  - (B) the signature of the parent;
  - (C) the date the authorization was signed by the parent;
  - (D) the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
- (9) A parent may give a caregiver standing authorization to administer an over-the-counter medication as directed by the North Carolina State Health Director or designee, when there is a public health emergency as identified by the North Carolina State Health Director or designee. The authorization shall be in writing, may be valid for as long as the child is enrolled, and shall contain:
  - (A) the child's name;
  - (B) the signature of the parent;
  - (C) the date the authorization was signed by the parent; and
  - (D) the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
- (10) Pursuant to G.S. 110-102.1A, a caregiver may administer medication to a child without parental authorization in the event of an emergency medical condition when the child's parent is unavailable, providing the medication is administered with the authorization and in accordance with instructions from a health care professional as defined in Rule .0102(16) of this Chapter.
- (11) A parent may withdraw his or her written authorization for the administration of medications at any time in writing.
- (12) Any medication remaining after the course of treatment is completed or after authorization is withdrawn shall be returned to the child's parents. Any medication the parent fails to retrieve within 72 hours of completion of treatment, or withdrawal of authorization, shall be discarded.
- (13) Any time prescription or over-the-counter medication is administered by a caregiver to children receiving care, including any time medication is administered in the event of an emergency medical condition without parental authorization as permitted by G.S. 110-102.1A, the child's name, the date, time, amount and type of medication given, and the name and signature of the person administering the medication shall be recorded. This information shall be noted on a medication permission slip, or on a separate form developed by the provider which includes the required information. This information shall be available for review by the Division during the time period the medication is being administered and for at least six months after the medication is administered. No documentation shall be required when items listed in Subparagraph (c)(7) of this Rule are applied to children.
- (d) To assure the health of children through proper sanitation, the operator shall:
  - (1) collect and submit samples of water from each well used for the children's water supply for bacteriological analysis to the local health department or a laboratory certified to analyze drinking water for public water supplies by the North Carolina Division of Laboratory Services every two years. Results of the analysis shall be on file in the home;
  - (2) have sanitary toilet, diaper changing and hand washing facilities. Diaper changing areas shall be separate from food preparation areas;

- (3) use sanitary diapering procedures. Diapers shall be changed whenever they become soiled or wet. The operator shall:
  - (A) wash his or her hands before, as well as after, diapering each child;
  - (B) ensure the child's hands are washed after diapering the child; and
  - (C) place soiled diapers in a covered, leak proof container which is emptied and cleaned daily;
- (4) use sanitary procedures when preparing and serving food. The operator shall:
  - (A) wash his or her hands before and after handling food and feeding the children; and
  - (B) ensure the child's hands are washed before and after the child is fed;
- (5) wash his or her hands, and ensure the child's hands are washed, after toileting or handling bodily fluids.
- (6) refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor the temperature;
- (7) date and label all bottles for each individual child, except when there is only one bottle fed child in care;
- (8) have a house that is free of rodents;
- (9) screen all windows and doors used for ventilation;
- (10) have all household pets vaccinated with up-to-date vaccinations as required by North Carolina law and local ordinances. Rabies vaccinations are required for cats and dogs; and
- (11) store garbage in waterproof containers with tight fitting covers.
- (e) The operator shall not force children to use the toilet and the operator shall consider the developmental readiness of each individual child during toilet training.
- (f) The operator shall not use tobacco products at any time while children are in care. Smoking or use of tobacco products shall not be permitted indoors while children are in care, or in a vehicle when children are transported.

*History Note: Authority G.S. 110-88; 110-91(6);*

*Eff. July 1, 1998;*

*Amended Eff. July 1, 2015; May 1, 2004; April 1, 2003; April 1, 2001.*

#### **10A NCAC 09 .1721 REQUIREMENTS FOR RECORDS**

- (a) The operator shall maintain the following health records for each enrolled child, including his or her own preschool child(ren):
  - (1) a copy of the child's health assessment as required by G.S. 110-91(1);
  - (2) a copy of the child's immunization record;
  - (3) an application for enrollment that includes information set forth in this Subparagraph of this Rule provided by the Division that is completed and signed by a child's parent, as defined in 10A NCAC 09 .0102. A copy of the form may be found on the Division's website at [http://ncchildcare.nc.gov/pdf\\_forms/DCD-0377.pdf](http://ncchildcare.nc.gov/pdf_forms/DCD-0377.pdf). The completed form shall be on file the first day the child attends. An operator may use another form other than the one provided by the Division, as long as the form includes the following information:



- (A) emergency medical information as set forth in Rule .1720(c) of this Section;
  - (B) the child's full name and the name the child is to be called;
  - (C) the child's date of birth;
  - (D) any allergies and the symptoms and type of response required for allergic reactions;
  - (E) any health care needs or concerns, symptoms of and the type of response required for these health care needs or concerns;
  - (F) a completed medical action plan shall be attached to the application for children with health care needs such as allergies, asthma, or other chronic conditions that require specialized health services. The medical action plan shall be completed by the child's parent or a health care professional and include the following information:
    - (i) a list of the child's diagnosis or diagnoses including dietary, environmental, and activity considerations that are applicable;
    - (ii) contact information for the health care professional(s);
    - (iii) medications to be administered on a scheduled basis; and
    - (iv) medications to be administered on an emergency basis with The medical action plan shall be updated on an annual basis. Sample medical action plans may be found on the Division's website at [http://ncchildcare.nc.gov/providers/pv\\_provideforms.asp](http://ncchildcare.nc.gov/providers/pv_provideforms.asp).
  - (G) particular fears or unique behavior characteristics that the child has;
  - (H) the names of individuals to whom the operator may release the child as authorized by the person who signs the application;
  - (I) the names and phone numbers of persons to be contacted in an emergency situation;
  - (J) the name and phone number of the child's physician; and
  - (K) authorization for the operator to seek emergency medical care in the parent's absence.
- (4) The operator shall:
- (A) release a child only to an individual listed on the form;
  - (B) have the information required by Parts (a)(3)(A) through (J) of this Rule available and accessible to additional caregivers and substitute providers during the time the child is in care; and
  - (C) use the information provided on the form to ensure that each individual child's needs are met during the time the child is in care; and
- (5) when medication is administered, authorization for the operator to administer the specific medication according to the parent's or physician's instructions.
- (b) The operator shall complete and maintain other records that include:
- (1) documentation of the operator's Emergency Preparedness and Response Plan on a template provided by the Division of Emergency Management at <http://rmp.nc.gov/portal/#>;
  - (2) documentation that monthly fire drills are practiced. The documentation shall include the date each drill is held, the time of day, the length of time taken to evacuate the home, and the operator's signature;

- (3) incident reports that are completed each time a child receives medical treatment by a physician, nurse, physician's assistant, nurse practitioner, community clinic, or local health department as a result of an incident occurring while the child is in the family child care home. Each incident shall be reported on a form provided by the Division, signed by the operator and the parent, and maintained in the child's file. The form shall contain the following information:
- (A) facility identifying information;
  - (B) date and time of the incident;
  - (C) witness to the incident;
  - (D) time the parent is notified of the incident and by who;
  - (E) piece of equipment involved;
  - (F) cause of injury;
  - (G) type of injury;
  - (H) body part injured;
  - (I) where the child received medical treatment;
  - (J) description of how and where the incident occurred and first aid received;
  - (K) steps taken to prevent reoccurrence;
  - (L) signature of staff member and date form completed; and
  - (M) signature of parent and date.
- A copy of the form can be found on the Division's website at [http://ncchildcare.nc.gov/pdf\\_forms/DCDEE-0058.pdf](http://ncchildcare.nc.gov/pdf_forms/DCDEE-0058.pdf). A copy shall be mailed to the Division within seven calendar days after the incident occurs;
- (4) an incident log that is filled out any time an incident report is completed. This log shall be cumulative and maintained in a separate file and shall be available for review by the Division. This log shall be completed on a form supplied by the Division. A copy of the form can be found on the Division's website at [http://ncchildcare.nc.gov/pdf\\_forms/incident\\_log\\_i.pdf](http://ncchildcare.nc.gov/pdf_forms/incident_log_i.pdf);
- (5) documentation that a monthly check for hazards on the outdoor play area is completed. This form shall be supplied by the Division and shall be maintained in the family child care home for review by the Division. The form shall include the following information:
- (A) name of facility, Time and date the form was completed;
  - (B) signature of individual completing form;
  - (C) general inspection items;
  - (D) surfacing;
  - (E) general hazard items; and
  - (F) deterioration of equipment
- For items on the checklist the operator has to check if pass or fail, if fail identify the problem and solution. A copy of the form can be found of the Division's website at [http://ncchildcare.nc.gov/pdf\\_forms/fcch\\_outdoor\\_inspection\\_checklist.pdf](http://ncchildcare.nc.gov/pdf_forms/fcch_outdoor_inspection_checklist.pdf);
- (6) daily attendance records for all children in care, including the operator's own preschool children. The attendance record shall indicate the date and time of arrival and departure for each child; and

- (7) documentation of lockdown or shelter-in-place drills giving the date each drill is held, the time of day, the length of time taken to get into designated locations and the signature of the person who conducted the drill.
- (c) Written records shall be maintained as follows:
- (1) All children's records as required in Section .1700 of this Chapter, except medication permission slips as required in Rule .1720(c)(13) of this Section, must be kept on file one year from the date the child is no longer enrolled.
  - (2) Additional caregiver records as required in Section .1700 of this Chapter shall be maintained on file one year from the employee's last date of employment.
  - (3) Current program records as required in this Chapter shall be maintained on file for as long as the license remains valid. Prior versions shall be maintained based on the time frame in the following charts:
- (A) A minimum of 30 days from the revision or replacement date:

Record	Rule
Daily Schedule	.1718(7)
Infant Feeding Schedule	.1706(f)
SIDS Sleep Chart/Visual Check	.1724(8)

- (B) A minimum of one year from the revision or replacement date:

Record	Rule
Attendance	.1721(b)(6)
Emergency Numbers	.1720(a)(8)
Emergency Preparedness and Response Plan	.1721(b)(1)
Field Trip/Transportation Permission	.1723(1)
Fire Drill Log	.1721(b)(2)
Lockdown or Shelter-in-Place Drill Log	.1721(b)(7)
Incident Log	.1721(b)(4)
Playground Inspection	.1721(b)(5)
Pet Vaccinations	.1720(d)(10)

- (4) Well-water analysis, pool inspection and inspections for local ordinances as referenced in Rules .1720(d)(1), .1730(j), and .1702(d) of this Section shall remain on file at the family child care home for as long as the license remains valid.
- (5) Records may be maintained in a paper format or electronically.
- (6) All records required in this Chapter shall be available for review by the Division.

*History Note: Authority G.S. 110-88; 110-91(1),(9);  
Eff. July 1, 1998;*

*Amended Eff. July 1, 2015; July 1, 2010; July 1, 2008; April 1, 2003; April 1, 2001;*  
*Temporary Amendment Eff. September 23, 2016.*

#### **10A NCAC 09 .1722 DISCIPLINE POLICY**

- (a) The operator shall provide a written copy of and explain the operator's discipline practices to a parent of each child at the time of enrollment. A parent must sign and date a statement which attests that a copy of the discipline policy was given to, and discussed with them. If an operator changes discipline practices, the parent must sign and date a statement acknowledging that they received written notice of and discussed the new policy at least 30 days prior to the implementation of the new policy. The signed statement shall be kept on file in the home available for review.
- (b) No child shall be subjected to any form of corporal punishment by the family child care home operator, substitute caregiver, or any other person in the home, whether or not these persons reside in the home.
- (c) No child shall be handled roughly in any way, including shaking, pushing, shoving, pinching, slapping, biting, kicking, or spanking.
- (d) No child shall ever be placed in a locked room, closet, or box, or be left alone in a room separated from staff.
- (e) No discipline shall ever be delegated to another child.
- (f) Discipline shall in no way be related to food, rest or toileting:
  - (1) No food shall be withheld, or given, as a means of discipline.
  - (2) No child shall ever be disciplined for lapses in toilet training.
  - (3) No child shall ever be disciplined for not sleeping during rest period.
- (g) No child shall be disciplined by assigning chores that require contact with or use of hazardous materials, such as cleaning bathrooms or floors, or emptying diaper pails.
- (h) Discipline shall be age and developmentally appropriate.

*History Note: Authority G.S. 110-91(10);*  
*Eff. July 1, 1998;*  
*Amended Eff. April 1, 2003; April 1, 2001.*

#### **10A NCAC 09 .1723 TRANSPORTATION REQUIREMENTS**

To assure the safety of children whenever they are transported, the operator, or any other transportation provider, shall:

- (1) have written permission from a parent to transport his or her child and notify the parent when and where the child is to be transported, and who the transportation provider will be;
- (2) ensure that all children regardless of age or location in the vehicle shall be restrained by individual seat belts or child restraint devices. Only one person shall occupy each seat belt or child restraint device;
- (3) be at least 18 years old, and have a valid driver's license of the type required under the North Carolina Motor Vehicle Law for the vehicle being driven, or comparable license from the state in which the driver resides, and no convictions of Driving While Impaired (DWI), or any other impaired driving offense, within the last three years;

- (4) ensure that each child is seated in a manufacturer's designated area;
- (5) ensure that a child shall not occupy the front seat if the vehicle has an operational passenger side airbag;
- (6) never leave children in a vehicle unattended by an adult;
- (7) have emergency and identification information about each child in the vehicle whenever children are being transported; and
- (8) not use a cellular telephone or other functioning two-way voice communication device except in the case of an emergency and only when the vehicle is parked in a safe location.

*History Note: Authority G.S. 110-91; G.S. 110-91(13); 143B-168.3;  
 Eff. July 1, 1998;  
 Amended Eff. December 1, 2014; April 1, 2003.*

### **10A NCAC 09 .1724 SAFE SLEEP POLICY**

(a) Each operator licensed to care for infants aged 12 months or younger shall develop and adopt a written safe sleep policy that:

- (1) specifies that the operator shall place infants aged 12 months or younger on their backs for sleeping, unless:
  - (A) for an infant aged six months or less, the operator receives a written waiver of this requirement from a health care professional; or
  - (B) for an infant older than six months, the operator receives a written waiver of this requirement from a health care professional, or a parent, or a legal guardian;
- (2) specifies that infants aged 12 months or younger shall be placed in a crib, bassinet or play pen with a firm padded surface when sleeping;
- (3) specifies whether pillows, blankets, toys, and other objects may be placed in a crib with a sleeping infant aged 12 months or younger, and if so, specifies the number and types of allowable objects;
- (4) specifies that nothing shall be placed over the head or face of an infant aged 12 months or younger when the infant is laid down to sleep;
- (5) specifies that the temperature in the room where infants aged 12 months or younger are sleeping does not exceed 75°F;
- (6) specifies the means by which the operator shall visually check sleeping infants aged 12 months or younger;
- (7) specifies the frequency with which the operator shall visually check sleeping infants aged 12 months or younger;
- (8) specifies how the operator shall document compliance with visually checking on sleeping infants aged 12 months or younger, with such documents to be maintained for a minimum of one month; and
- (9) specifies any other steps the operator shall take to provide a safe sleep environment for infants aged 12 months or younger.

(b) The operator shall post a copy of the safe sleep policy or a poster about safe sleep practices in a prominent place in the infant sleeping room or area.

(c) A copy of the operator's safe sleep policy shall be given and explained to the parents of an infant aged 12 months or younger on or before the first day the infant attends the home. The

parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain:

- (1) the infant's name;
- (2) the date the infant first attended the home;
- (3) the date the operator's safe sleep policy was given and explained to the parent; and
- (4) the date the parent signed the acknowledgement.

The operator shall retain the acknowledgement in the child's record as long as the child is enrolled at the home.

(d) If an operator amends a home's safe sleep policy, the operator shall give written notice of the amendment to the parents of all enrolled infants aged 12 months or younger at least 14 days before the amended policy is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The operator shall retain the acknowledgement in the child's record as long as the child is enrolled at the home.

(e) A health care professional's or parent's waiver of the requirement that all infants aged 12 months or younger be placed on their backs for sleeping shall:

- (1) bear the infant's name and birth date;
- (2) be signed and dated by the infant's health care professional or parent; and
- (3) specify the infant's authorized sleep positions;

The operator shall retain the waiver in the child's record as long as the child is enrolled at the home.

(f) For each infant with a waiver on file at the home as specified in Paragraph (e) of this Rule, a notice shall be posted for quick reference near the infant's crib, bassinet, or play pen that shall include:

- (1) the infant's name;
- (2) the infant's authorized sleep position; and
- (3) the location of the signed waiver.

No confidential medical information, including an infant's medical diagnosis, shall be shown on the notice.

*History Note: Authority G.S. 110-85; 110-91(15); 143B-168.3;  
Eff. May 1, 2004;  
Amended Eff. July 1, 2010.*

## **10A NCAC 09 .1726 PREVENTION OF SHAKEN BABY SYNDROME AND ABUSIVE HEAD TRAUMA**

(a) The operator of a family child care home licensed to care for children up to five years of age shall develop and adopt policies to assist staff in preventing shaken baby syndrome and abusive head trauma. For purposes of this Rule, "staff" includes the operator, additional caregivers, substitute providers, and uncompensated providers. The policy shall include:

- (1) How to recognize, respond to, and report the signs and symptoms of shaken baby syndrome and abusive head trauma. Signs and symptoms include: irritability, difficulty staying awake, difficulty breathing, inability to lift the head, seizures, lack of appetite, vomiting, and bruises;
- (2) Strategies to assist staff in coping with a crying, fussing, or distraught child;
- (3) Strategies to ensure staff members understand how to care for infants;

- (4) Strategies to ensure staff understand the brain development of children up to five years of age;
  - (5) A list of prohibited behaviors that staff shall follow in order to care for children in a developmentally appropriate manner. Prohibited behaviors shall include, but not be limited to, shaking a child, tossing a child into the air or into a crib, chair, or care seat, and pushing a child into walls, doors, and furniture; and
  - (6) Resources to assist staff and families in preventing shaken baby syndrome and abusive head trauma.
- (b) A copy of the policy shall be given and explained to the parents of children up to five years of age on or before the first day the child receives care at the home. The parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain the following:
- (1) The child's name;
  - (2) The date the child first attended the home;
  - (3) The date the operator's policy was given and explained to the parent;
  - (4) The parent's name;
  - (5) The parent's signature; and
  - (6) The date the parent signed the acknowledgment.
- The operator shall obtain the parent's signature and the acknowledgement shall be kept in the child's file.
- (c) If an operator changes the policy at any time, the operator shall give written notice of the change to the child's parent 14 days prior to the implementation of the new policy and the parent shall sign a statement that attests that a copy of the new policy was given to and discussed with him or her. The center shall obtain the parent's signature and this statement shall be kept in the child's file.
- (d) The operator shall review the policy with staff prior to the individual providing care to children. The acknowledgement of this review shall contain the following:
- (1) The individual's name;
  - (2) The date the operator's policy was given and explained to the individual;
  - (3) The individual's signature; and
  - (4) The date the individual signed the acknowledgment.
- The operator shall retain the acknowledgement in the staff member's file.
- (e) If an operator changes the policy at any time, the operator shall review the revised policy with staff 14 days prior to the implementation of the new policy. The individual shall sign a statement that attests that a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the staff member's file.

*History Note: Authority G.S. 143B-168.3;  
Temporary Adoption Eff. September 23, 2016.*

**10A NCAC 09 .1727 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 09 .1728 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 09 .1729 RESERVED FOR FUTURE CODIFICATION**

## **10A NCAC 09 .1730 ACTIVITIES INVOLVING WATER**

(a) The requirements in this Rule apply to "aquatic activities" which are defined as activities that take place in a body of water such as swimming, swimming instruction, wading, and visits to water parks. Aquatic activities do not include water play activities such as water table play, slip and slide activities, or playing in sprinklers.

(b) Aquatic activities involving the following are prohibited:

- (1) hot tubs;
- (2) spas;
- (3) saunas or steam rooms;
- (4) portable wading pools; and
- (5) natural bodies of water and other unfiltered, nondisinfected containments of water.

(c) When children enrolled in a family child care home participate in aquatic activities, there shall be at least one person who has a life guard training certificate issued by the Red Cross or other training determined by the Division to be equivalent to the Red Cross training, appropriate for both the type of body of water and type of aquatic activity. Verification of the operator's completion of this course from an approved training organization shall be maintained in their personnel file in the family child care home. The Division shall post a list of approved training organizations on its website at [http://ncchildcare.nc.gov/providers/pv\\_sn2\\_ov\\_pd.asp](http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp).

(d) Children under the age of three shall not participate in aquatic activities except to the extent necessary to implement any child's Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP).

(e) The family child care home operator shall be responsible for adequately supervising the aquatic activity for the duration of the activity. "Adequate supervision" means that the operator shall be able to hear, see, and respond to the children whether in or out of the water.

(f) Prior to children participating in aquatic activities, the operator shall develop policies that address the following:

- (1) aquatic safety hazards;
- (2) pool and aquatic activity area supervision, including restroom or changing room use;
- (3) how discipline will be handled during aquatic activities;
- (4) the operator's specific field trip and transportation policies; and
- (5) that children shall be directed to exit the water during an emergency.

(g) Parents must provide written permission for participation in aquatic activities. The written permission shall include a statement that parents are aware of the operator's aquatic policies specified in Paragraph (f) of this Rule. The operator shall maintain copies of written parental permission in each child's file.

(h) Any outdoor swimming pool located on the family child care home premises shall be enclosed by a fence that is at least four feet high, separated from the remaining outdoor play area by that fence, and locked and inaccessible to children when not in use.

(i) Swimming pool safety rules shall be posted and visible to children and staff for any swimming pool located on the child care facility premises. These rules shall state:

- (1) the location of a first-aid kit;
- (2) that only water toys are permitted;
- (3) that children are not allowed to run or push one another;
- (4) that swimming is allowed only when the operator is present; and



- (5) that glass objects are not allowed.
- (j) All swimming pools used by children in care shall meet the "Rules Governing Public Swimming Pools" in accordance with 15A NCAC 18A .2500 which are incorporated by reference, including subsequent amendments. A copy of these Rules can be found at <http://ehs.ncpublichealth.com/docs/rules/294306-9-2500.pdf> and is available at no charge.
- (k) Educational activities, such as observing tadpoles, exploring mud, or learning about rocks and vegetation are permitted around bodies of water. However, if children will be in the water for any part of the activity, Paragraphs (a) through (g) of this Rule shall apply.
- (l) Boating, rafting, and canoeing activities are permitted. Prior to participating in recreational activities conducted on the water, children shall wear an age or size appropriate personal floatation device approved by the United States Coast Guard. This personal floatation device shall be worn for the duration of the activity.

*History Note: Authority G.S. 110-88; 110-91(1),(3),(6); 143B-168.3;  
Temporary Adoption Eff. September 23, 2016.*

#### **10A NCAC 09 .1731 ADDITIONAL HEALTH AND SAFETY TRAINING REQUIREMENTS**

- (a) Child care operators, additional caregivers, and substitute providers shall complete health and safety training offered by the Division no later than June 30, 2017.
- (b) The training shall include the following topic areas:
  - (1) Prevention and control of infectious diseases, including immunization;
  - (2) Administration of medication, with standards for parental consent;
  - (3) Prevention of and response to emergencies due to food and allergic reactions;
  - (4) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
  - (5) Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event;
  - (6) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;
  - (7) Precautions in transporting children if applicable;
  - (8) Prevention of shaken baby syndrome and abusive head trauma;
  - (9) CPR and First Aid training as required in Rule .1705 of this Section. Verification of the operator's completion of this course from an approved training organization shall be maintained in their personnel file in the family child care home. The Division shall post a list of approved training organizations on its website at [http://ncchildcare.nc.gov/providers/pv\\_sn2\\_ov\\_pd.asp](http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp);
  - (10) "Recognizing and Responding to Suspicions of Child Maltreatment" as required in Rule .1705(b)(10) of this Section; and
  - (11) Prevention of sudden infant death syndrome and use of safe sleeping practices.
- (c) Training hours accrued for the completion of this requirement shall count toward in-service training. However, child care operators, additional caregivers, and substitute providers must complete the health and safety training even if the number of hours accrued exceeds required in-service training, as specified in Rule .1705(b)(5) of this Section.

*History Note: Authority G.S. 110-88; 110-91(11); 143B-168.3;  
Temporary Adoption Eff. September 23, 2016.*

## **SECTION .1900 - SPECIAL PROCEDURES CONCERNING ABUSE/NEGLECT IN CHILD CARE**

### **10A NCAC 09 .1901 NOTIFICATION TO COUNTY DEPARTMENTS OF SOCIAL SERVICES**

Any allegation of abuse or neglect received by the Division shall be referred to the county department of social services within 24 hours of receipt of the complaint or on the next working day. Even if the county department of social services determines the allegation does not warrant investigation according to G.S. 7B-302, the complaint shall be investigated by the Division.

*History Note: Authority G.S. 110-88(5); 143B-168.3;  
Eff. January 1, 1986;  
Amended Eff. April 1, 2001; November 1, 1989.*

### **10A NCAC 09 .1902 RESERVED FOR FUTURE CODIFICATION**

### **10A NCAC 09 .1903 INVESTIGATION PROCEDURES**

- (a) The investigation shall include interviews with the operator, staff, parents, or any other adult who has information regarding the allegation. Reports from law enforcement officers and other professionals, as well as photographs and other investigative tools, may be used as appropriate.
- (b) The Division's representative may interview the child or children about the allegations of abuse or neglect only in those cases where the county department of social services does not conduct an investigation.
- (c) The Division shall share information related to investigations with departments of social services, as appropriate. However, any information subject to confidentiality laws or regulations shall be handled so as to preserve the confidential nature of the material.
- (d) At any time during the investigation, the representative of the Division may conduct an evaluation for compliance with all applicable requirements.
- (e) The Division shall make a written report to the operator and the county department of social services when the investigation is completed. The Division may also report to law enforcement officers and other professionals that were involved in the investigation. This report shall explain the Division's findings and what further action will be taken, if any.
- (f) The final written report of findings and further action shall be made within 90 days of receipt of the allegation. If the investigation is not complete at that time, an interim report explaining the status of the investigation shall be made to the operator 90 days after receipt of the allegation and every 30 days thereafter until the final report is made. The county department of social services shall be sent a copy of each interim report.

*History Note: Authority G.S. 7B-301; 110-88(5); 110-105; 143B-168.3;  
Eff. January 1, 1986;  
Amended Eff. April 1, 2001; October 1, 1991; July 1, 1988; January 1, 1987.*

### **10A NCAC 09 .1904 ADMINISTRATIVE SANCTIONS**

- (a) A special provisional license may be issued for a six-month period when the Division determines that abuse or neglect occurred in a child care center or home. The following provisions shall apply:

- (1) the special provisional license and the reasons for its issuance shall be posted in a prominent place in the center or home as soon as they are received by the operator;
  - (2) the special provisional license and reasons for issuance shall remain posted for the entire six months covered by the license, and also during the time of any administrative proceedings;
  - (3) no new children shall be enrolled in the center or home until the Division is satisfied that the abusive or neglectful situation no longer exists and gives the operator written permission to accept new children; and
  - (4) an operator may obtain an administrative hearing on the issuance of a special provisional license in accordance with the provisions of G.S. 150B-23.
- (b) A written warning specifying corrective action to be taken by the operator of the child care center or home may be issued when the investigation is concluded and the Division determines that abuse or neglect occurred in a center or home and the situation does not warrant issuance of a special provisional license.
- (c) A civil penalty, in accordance with the schedules listed in Rule .1716 and .Section .2200 of this Subchapter, may be levied against the operator of a child care home or center when the Division determines that child abuse or neglect has occurred while the child was in the care of the home or center. In addition, any violation of the terms of a special provisional license may result in the assessment of a civil penalty as provided in Rule .1716 and Section .2200 of this Subchapter.
- (d) Failure to implement the corrective action plan required by a written warning pursuant to G.S. 110-88(6a) may result in either the assessment of a civil penalty as provided in Section .2200 of this Subchapter or the issuance of a special provisional license or may result in both actions being taken.
- (e) The type of sanction imposed by the Secretary shall be determined by one or more of the following criteria:
- (1) severity of the incident;
  - (2) probability of reoccurrence;
  - (3) prior incidents of abuse or neglect in the center or home;
  - (4) history of compliance with child care requirements; or
  - (5) the Division's assessment of the operator's response to the incident.
- (f) Nothing in this Rule shall restrict the Secretary from using any other statutory or administrative penalty available pursuant to G.S. 110-102.2 and Section .2200 of this Subchapter, or the provisions in 150B-3(c) to summarily suspend a license if the health, safety or welfare of any child is in jeopardy.

*History Note: Authority G.S. 110-88(5); 110-88(6a); 110-102.2; 110-103.1; 143B-168.3; 150B-3; 150B-23;  
Eff. January 1, 1986;  
Amended Eff. April 1, 2001; August 1, 1990; November 1, 1989; July 1, 1988.*

## **SECTION .2000 - RULEMAKING AND CONTESTED CASE PROCEDURES**

### **10A NCAC 09 .2001 PETITIONS FOR RULEMAKING**

(a) Any person wishing to request the adoption, amendment, or repeal of a rule made by the Child Care Commission (hereinafter referred to as the Commission) shall make the request in a written petition to:

Rulemaking Coordinator  
Division of Child Development and Early Education  
2201 Mail Service Center  
Raleigh, North Carolina 27699-2200

(b) Petitions for adoption or amendment of a rule shall include a draft of the proposed rule, and the name and address of the petitioner. The petition may also include any of the following items known to the petitioner:

- (1) the statutory authority for the Commission to promulgate the rule;
- (2) the effect on existing rules;
- (3) any data supporting the proposal;
- (4) the effect of the proposed rule on existing practices in the area involved, including cost factors;
- (5) the names and addresses of those most likely to be affected by the proposed; and
- (6) the reasons for the proposal.

(c) The Division Director or designee shall present the petition to the Commission to determine whether the Commission has statutory authority to grant the petition.

(d) The Commission shall render a decision as to whether to deny or approve the petition at its next scheduled meeting, which may be no later than 120 days after submission of the petition. If the decision is to deny the petition, the Division Director or designee shall notify the petitioner in writing, stating the reasons for the denial. If the decision is to approve the petition, the Commission shall initiate rulemaking in accordance with G.S. 150B-21.2.

*History Note: Authority G.S. 110-85; 143B-168.3; 150B-20;*

*Eff. November 1, 1989;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest*

*Eff. May 23, 2015;*

*Amended Eff. February 1, 2016.*

### **10A NCAC 09 .2002 RULEMAKING PROCEDURES**

(a) The rulemaking procedures for the Secretary of the Department of Health and Human Services codified in 10A NCAC 01A .0104 are hereby incorporated by reference including subsequent amendments and editions, with the following modifications:

- (1) Correspondence related to the Commission's rulemaking actions shall be submitted to:

Rulemaking Coordinator  
Division of Child Development and Early Education  
2201 Mail Service Center  
Raleigh, North Carolina 27699-2200

- (2) "Hearing officer" shall mean the Chairman of the Child Care Commission or the Chairman's designee.
- (b) Copies of 10A NCAC 01A .0104 may be inspected in the Division at the address given in Subparagraph (a)(1) of this Rule. A copy of this Rule may be found on the Office of Administrative Hearings website at <http://reports.oah.state.nc.us/ncac.asp>.

*History Note: Authority G.S. 110-85; 143B-168.3; 150B-20;  
Eff. November 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest  
Eff. May 23, 2015;  
Amended Eff. February 1, 2016.*

### **10A NCAC 09 .2003 DECLARATORY RULINGS**

- (a) All requests for declaratory rulings shall be by written petition as described in Paragraph (b) of this Rule and shall be submitted to:

Rulemaking Coordinator  
Division of Child Development and Early Education  
2201 Mail Service Center  
Raleigh, North Carolina 27699-2200

- (b) Every request for a declaratory ruling shall include the following information:
- (1) the name and address of the petitioner;
  - (2) the statute or rule to which the petition relates;
  - (3) a statement of the manner in which the petitioner is aggrieved by the rule or statute or its potential application to him or her; and
  - (4) the consequences for the petitioner of a failure to issue a declaratory ruling.
- (c) When a request for a declaratory ruling meets the requirements of Paragraph (b) of this Rule, the Commission shall determine whether it has the statutory authority to grant the declaratory ruling and if so, grant the request for a declaratory ruling within 30 days of the receipt of the petition.
- (d) A declaratory ruling procedure shall consist of written submissions, oral hearings, and such other procedures as the Commission deems necessary to understand the issues involved in the particular case.
- (e) If the Commission grants the declaratory ruling request, the Commission shall issue notice by posting on the Division's website at <http://ncchildcare.dhhs.state.nc.us/general/whatsnew.asp> that written comments may be submitted or oral presentations received at a scheduled hearing.
- (f) A record of all declaratory ruling proceedings shall be maintained by the Division and shall be available for public inspection during regular business hours. This record shall contain:
- (1) the original request;
  - (2) the reasons for refusing to issue a ruling;
  - (3) all written memoranda and information submitted;
  - (4) any written minutes or audio tape or other record of the oral hearing; and
  - (5) a statement of the ruling.

*History Note: Authority G.S. 110-85; 143B-168.3; 150B-4;  
Eff. November 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest  
Eff. May 23, 2015;  
Amended Eff. February 1, 2016.*

#### **10A NCAC 09 .2004 CONTESTED CASES: DEFINITIONS**

The following terms shall have the following meaning for this Section:

- (1) "Department" means the Department of Health and Human Services;
- (2) "Hearing" means a contested case hearing as provided in G.S. 150B-2(2) and 150B-23;
- (3) "OAH" means the Office of Administrative Hearings.

*History Note: Authority G.S. 110-85; 110-94; 150B-23;  
Eff. November 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest  
Eff. May 23, 2015;  
Amended Eff. February 1, 2016.*

#### **10A NCAC 09 .2005 CONTESTED CASES: REQUEST FOR DETERMINATION**

- (a) In accordance with G.S. 150B-22, any person may request a determination of his or her legal rights, privileges, or duties as they relate to laws or rules administered by the Department.
- (b) All petitions for hearings regarding matters under the control of the Department shall be filed with the OAH in accordance with G.S. 150B-23 and 26 NCAC 03 .0103. In accordance with G.S. 1A-1, Rule 4(j)4, the petition shall be served on a registered agent for service of process for the Department. A list of registered agents may be obtained from the Office of General Counsel, 2001 Mail Service Center, Raleigh, NC 27699-2001.

*History Note: Authority G.S. 150B-22; 150B-23;  
Eff. November 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest  
Eff. May 23, 2015;  
Amended Eff. February 1, 2016.*

#### **10A NCAC 09 .2006 CONTESTED CASES: RECORD**

#### **10A NCAC 09 .2007 CONTESTED CASES: EXCEPTIONS TO RECOMMENDED DECISION**

*History Note: Authority G.S. 143B-10; 143B-10(j)(3); 150B-11; 150B-23(e); 150B-29(b);  
150B-36; 150B-37;  
Eff. November 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest  
Eff. May 23, 2015;  
Repealed Eff. December 1, 2015.*

## **SECTION .2200 - ADMINISTRATIVE ACTIONS AND CIVIL PENALTIES**

### **10A NCAC 09 .2201 ADMINISTRATIVE PENALTIES: GENERAL PROVISIONS**

- (a) Pursuant to G.S. 110-102.2, the secretary or designee may order one or more administrative penalties against any operator who violates any provision of Article 7 of Chapter 110 of the General Statutes or of this Chapter.
- (b) Nothing in this Section shall restrict the Secretary from using any other statutory or civil penalty available. A civil penalty in accordance with G.S. 110-103.1 and Section .2200 of this Chapter may be imposed in conjunction with any other administrative activity.
- (c) The issuance of an administrative penalty may be appealed pursuant to G.S. 150B-23.
- (d) Following the substantiation of any abuse or neglect complaint or the issuance of any administrative action against a child care facility, the operator shall:
  - (1) maintain copies of documentation of the substantiated complaint investigation or the administrative action issued against the facility for the past three years in a binder, which is accessible to parents;
  - (2) within 30 days, notify the parents of the children currently enrolled that a complaint was substantiated or that an administrative action was taken against the facility, including administrative actions that may be stayed pending appeal. The notice shall:
    - (A) be in writing;
    - (B) include information on the nature of the substantiated complaint or the type of administrative action taken; and
    - (C) state where the binder containing copies of the substantiated complaint investigation or administrative action may be found on site for review by the parents; and
  - (3) document the date that the written notice was given to all parents and have parents sign an acknowledgement that they have received said notice.

*History Note: Authority G.S. 110-85; 110-102.2; 110-103.1; 143B-168.3; 150B-23;  
Eff. July 1, 1988;  
Amended Eff. July 1, 2010; January 1, 2006; April 1, 2001; November 1, 1989.*

### **10A NCAC 09 .2202 WRITTEN REPRIMANDS**

- (a) A written reprimand may be issued to censure any violation which the Division determines to have been a brief uncustomary event which is unlikely to recur in the ordinary operation of the center or home.
- (b) The reprimand shall describe the reasons for its issuance including identification of the specific section of the statutes or rules violated.

*History Note: Authority G.S. 110-102.2; 143B-168.3;  
Eff. July 1, 1988;  
Amended Eff. April 1, 2001; August 1, 1990; November 1, 1989.*



### **10A NCAC 09 .2203 WRITTEN WARNINGS**

- (a) A written warning and a corrective action plan may be issued in regard to any violation to allow the operator an opportunity to demonstrate compliance with all requirements.
- (b) The written warning and corrective action plan shall describe the reasons for its issuance including identification of the specific section of the statutes or rules violated. It shall also describe those actions necessary for the operator to be in full compliance with requirements and shall specify a time period for compliance to be achieved.
- (c) If the operator fails to achieve compliance during the specified time period, the Division shall employ more restrictive action to achieve compliance or shall revoke the permit.

*History Note: Authority G.S. 110-102.2; 143B-168.3;  
Eff. July 1, 1988;  
Amended Eff. April 1, 2001; November 1, 1989.*

### **10A NCAC 09 .2204 PROBATIONARY LICENSE**

- (a) A permit may be placed in probationary status for a period of time not to exceed one year when, in the Division's determination, violation of any section of the statutes or rules has been willful, continual, or hazardous to health or safety.
- (b) The document ordering probation shall describe the reasons for its issuance including identification of the specific section of the statutes or rules violated and shall specify the period of probation. It shall also specify terms of probation with which the operator must comply to retain the permit.
- (c) The order of probation shall be posted in a prominent place in the center or home during the probationary period. If probation is stayed pending appeal, the probation order shall remain posted in the center or home pending final action.
- (d) Failure of the operator to comply with the terms of probation shall result in the commencement of proceedings to suspend or revoke the permit.

*History Note: Authority G.S. 110-102.2; 143B-168.3;  
Eff. July 1, 1988;  
Amended Eff. April 1, 2001; November 1, 1989.*

### **10A NCAC 09 .2205 SUSPENSION**

- (a) Suspension of a permit for a period of time not to exceed 45 days may be ordered when violation of any section of the statutes or rules has been willful, continual, or hazardous to health or safety, and/or the operator has not made reasonable efforts to conform to standards.
- (b) The operator shall be notified in advance of the determination to suspend the permit and the reasons for such action. The operator may request an agency review of the situation and shall be given an opportunity to show compliance with all requirements for retention of the permit.
- (c) The suspension order shall specify the period of suspension and the reasons for its issuance. The operator shall surrender the permit to the Division on the effective date of the suspension order and shall refrain from operating a center or home during the suspension period.
- (d) If suspension is stayed pending appeal, the suspension order shall be posted in a prominent place in the center or home pending final action.

(e) Failure to comply with the suspension order shall result in civil action in accordance with G.S. 110-103.1 and/or criminal penalty in accordance with G.S. 110-103. The Division may also seek injunctive relief in accordance with G.S. 110-104.

*History Note: Authority G.S. 110-102.2; 143B-168.3; 150B-3;  
Eff. July 1, 1988;  
Amended Eff. April 1, 2001; November 1, 1989.*

#### **10A NCAC 09 .2206 REVOCATION**

- (a) Revocation of a permit may be ordered when violation of any section of the statutes or rules has been willful, continual, or hazardous to health or safety, or the operator has not made reasonable efforts to conform to standards or is unable to comply.
- (b) The operator shall be notified in advance of the determination to revoke the permit and the reasons for such action. The operator may request an agency review of the situation and shall be given an opportunity to show compliance with all requirements for retention of the permit.
- (c) The revocation order shall specify the reasons for its issuance and the effective date of revocation and shall be posted prominently in the center or home immediately upon receipt. The operator shall surrender the permit on the effective date of the revocation order and shall refrain from operating the center or home thereafter.
- (d) Failure to comply with the revocation order shall result in civil action in accordance with G.S. 110-103.1 or a criminal penalty in accordance with G.S. 110-103, or both. The Secretary may also seek injunctive relief in accordance with G.S. 110-104.

*History Note: Authority G.S. 110-102.2; 143B-168.3; 150B-3;  
Eff. July 1, 1988;  
Amended Eff. April 1, 2001; August 1, 1990; November 1, 1989.*

#### **10A NCAC 09 .2207 SUMMARY SUSPENSION**

- (a) Summary suspension of a permit may be ordered in accordance with G.S. 150B-3(c) when, in the Division's determination, emergency action is required to protect the health, safety, or welfare of children in a child care facility regulated by the Division.
- (b) The suspension order shall specify the reasons for its issuance including identification of the specific section of the statutes and rules violated and the determination of the need for emergency action. The order shall be effective on the date specified in the order. The order shall be effective during proceedings to suspend or revoke the permit.
- (c) The operator shall surrender the permit on the effective date of the order and shall refrain from operating a center or home until final action is determined.
- (d) Failure to comply with the summary suspension order shall result in civil action in accordance with G.S. 110-103.1, and/or criminal penalty in accordance with G.S. 110-103. The Division may also seek injunctive relief in accordance with G.S. 110-104.

*History Note: Authority G.S. 110-102.2; 143B-168.3; 150B-3;  
Eff. July 1, 1988;  
Amended Eff. April 1, 2001; November 1, 1989.*

### **10A NCAC 09 .2208 CIVIL PENALTIES: SCOPE AND PURPOSE**

Any operator who violates any provision of G.S. 110, Article 7 or of this Subchapter, or who fails to take corrective action after being provided adequate written notice by the Division, shall be considered to be in willful violation of the licensing law and a civil penalty may be levied against the operator by the secretary or designee pursuant to rules and schedules of penalties adopted by the Commission.

*History Note: Authority G.S. 110-90(9); 110-103.1; 143B-168.3;  
Eff. January 1, 1986;  
Amended Eff. April 1, 2001; November 1, 1989; January 1, 1987.*

### **10A NCAC 09 .2209 AMOUNT OF PENALTY**

(a) The amount of the penalty assessed shall be based upon the following factors: willful or negligent non-compliance by the operator, history of non-compliance, extent of deviation from the regulation, evidence of good faith effort to comply, and any other factors relevant to the unique situation.

(b) The amount of the penalty, within the limitation established by G.S. 110-103.1, shall be in accordance with the following schedule:

- (1) Where a violation presents a clear and imminent danger to the safety of the children, a civil penalty up to one thousand dollars (\$1000) may be imposed;
- (2) Where a violation endangers, or has the potential to endanger the children's health, safety, or well-being, a civil penalty up to five hundred dollars (\$500.00) may be imposed;
- (3) Where a violation does not directly endanger the children, a civil penalty of up to two hundred and fifty dollars (\$250.00) may be imposed.

(c) A separate penalty may be imposed for each violation.

*History Note: Authority G.S. 110-90(9); 110-103.1; 143B-168.3;  
Eff. January 1, 1986.*

### **10A NCAC 09 .2210 NOTICE OF ASSESSMENT OF PENALTY**

### **10A NCAC 09 .2211 RIGHT TO A HEARING**

### **10A NCAC 09 .2212 FAILURE TO PAY ASSESSED PENALTY**

*History Note: Authority G.S. 110-90(9); 110-103.1; 143B-168.3;  
Eff. January 1, 1986;  
Amended Eff. July 1, 1988; January 1, 1987;  
Pursuant to G.S. 150B-21.3A, rule Expired June 1, 2015.*

### **10A NCAC 09 .2213 SCHEDULE OF CIVIL PENALTIES FOR CHILD CARE CENTERS**

(a) The following penalties may be assessed against child care centers as defined in G.S. 110-86(3).

(b) A civil penalty in an amount up to one thousand dollars (\$1,000) may be imposed for the following violations:

- (1) Non-compliance with the standards for:

- (A) Staff-child ratios;
    - (B) Adequate supervision of children;
    - (C) Transportation of children; or
    - (D) Use of swimming pools and other swim areas;
  - (2) Disapproved fire safety, building or sanitation inspection reports;
  - (3) Exceeding licensed capacity of center, or use of unauthorized space;
  - (4) Change of ownership or relocation of center without prior notification to the Division;
  - (5) Substantiation that a child (or children) was abused or neglected while in the care of the center; or
  - (6) Willful, repeated pattern of non-compliance with any requirement over extended period of time.
- (c) A civil penalty in an amount up to five hundred dollars (\$500.00) may be imposed for the following violations:
- (1) Non-compliance with the standards for:
    - (A) Staff health requirements;
    - (B) Staff qualifications;
    - (C) Children's health requirements;
    - (D) Proper nutrition;
    - (E) Sanitation and personal hygiene practices;
    - (F) Discipline of children;
    - (G) Indoor or outdoor space; or
    - (H) Emergency medical plan;
  - (2) Failure to comply with a corrective action plan;
  - (3) Denial of entry to an authorized representative of the department or Division.
- (d) A civil penalty in an amount up to two hundred and fifty dollars (\$250.00) may be imposed for the following violations:
- (1) Non-compliance with the standards to provide:
    - (A) Age-appropriate activities; or
    - (B) Staff development.
  - (2) Failure to post provisional permit; or
  - (3) Failure to maintain accurate records.
- (e) Violation of other standards may result in the assessment of a penalty according to the effect or potential effect of the violation on the safety and well-being of the child.

*History Note: Authority G.S. 110-90(9); 110-103.1; 143B-168.3;  
 Eff. January 1, 1986;  
 Amended Eff. April 1, 2001; October 1, 1991.*

## **SECTION .2700 - CRIMINAL RECORDS CHECKS**

### **10A NCAC 09 .2701 SCOPE**

The rules in this Section apply to all child care providers as defined in G.S.110-90.2. The Division, in accordance with G.S.110-90.2, shall determine if an individual is a qualified child care provider. An individual may work or be present in any child care facility during the time the individual holds a valid qualification letter after the Division's determination that the individual is a qualified child care provider.

*History Note: Authority G.S. 110-85; 110-90.2;  
Eff. March 1, 2014.*

### **10A NCAC 09 .2702 DEFINITIONS**

For purposes of this Section:

- (1) a "qualified child care provider" means an individual who the Division has determined is fit to have responsibility for the safety and well-being of children based on the criminal history as set forth in G.S. 110-90.2.
- (2) a "disqualified child care provider" means an individual who:
  - (a) the Division has determined is not fit to have responsibility for the safety and well-being of children based on the criminal history in accordance with G.S. 110-90.2(a)(3);
  - (b) is classified within the prohibited list provided in G.S. 110-90.2(a1);
  - (c) the Division determines to be an habitually excessive user of alcohol, who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children;
  - (d) refuses to consent to a criminal history record check; or
  - (e) intentionally falsifies any information required to conduct a criminal history record check.
- (3) a "qualification letter" or "qualifying letter" means the letter issued by the Division notifying an individual that he or she is a qualified child care provider;
- (4) a "conviction" includes when a plea of guilty or no contest is accepted by the trial court, or entry of an order granting a prayer for judgment continued; and
- (5) a "pending criminal charge" includes, but is not limited to, a charge that has been deferred pursuant to G.S. 15A-1341(a1).

*History Note: Authority G.S. 110-85; 110-90.2; 110-90.2(a)(3); 114-19.5; 143B-168.3; S.L. 1995, c. 507, s.23.25;  
Temporary Adoption Eff. January 1, 1996;  
Eff. April 1, 1997;  
Amended Eff. March 1, 2014; November 1, 2007; April 1, 2003.*

# **10A NCAC 09 .2703 CRIMINAL HISTORY RECORD CHECK REQUIREMENTS FOR CHILD CARE PROVIDERS**

(a) In addition to the requirements in Rules .0302 and .1702 of this Chapter, a child care provider shall submit the following to the Division prior to the issuance of a license or prior to beginning employment:

- (1) a signed and completed Authority for Release of Information form;
- (2) fingerprint impressions submitted on the form(s) required by the Division and State Bureau of Investigation; and
- (3) if a child care provider is an out-of-state resident, he or she shall also submit a certified local history from the Clerk of Superior Court in his or her county of residence.

All required forms can be found on the Division's website at [http://ncchildcare.dhhs.state.nc.us/general/dhhscrc\\_childcare.asp](http://ncchildcare.dhhs.state.nc.us/general/dhhscrc_childcare.asp).

(b) If the child care provider has a criminal history of convictions, pending indictment of a crime, or pending criminal charges, he or she may submit to the Division additional information concerning the conviction or charges that the Division shall use in making the determination of the child care provider's qualification. The Division shall also consider the following in making its decision:

- (1) length of time since conviction;
- (2) whether the child care provider is currently on probation;
- (3) nature of the offense;
- (4) circumstances surrounding the commission of the offense or offenses;
- (5) evidence of rehabilitation;
- (6) number and type of prior offenses; and
- (7) age of the child care provider at the time of occurrence.

(c) If the child care provider is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity or a person designated by the chief executive officer as responsible for the operation of the facility, shall complete the criminal history record check as specified in Paragraph (a) of this Rule.

(d) If a Letter of Intent to Operate pursuant to G.S. 110-106 is submitted to the Division, the person signing the Letter of Intent shall submit all forms as required in Paragraph (a) of this Rule.

(e) Child care providers must have a valid qualification letter prior to employment or living in the family child care home and the qualification letter must be kept on file at the facility for review by representatives of the Division.

(f) Child care providers found to be disqualified are not eligible for employment in child care until a qualification letter has been issued by the Division.

(g) Child care providers determined by the Division to be disqualified shall be terminated by the center or family child care home immediately upon receipt of the disqualification notice.

(h) Disqualification of a child care provider living in a family child care home shall be grounds for issuance of a summary suspension of the family child care home license in accordance with 10A NCAC 09 .2207.

(i) Refusal on the part of the employer to dismiss a child care provider who has been found to be disqualified shall be grounds for suspension, denial, or revocation of the license or any other administrative action or civil penalty permitted by law or rule. If an applicant appeals the disqualification, the child care provider shall not be employed during the appeal process.

- (j) Operators, as defined by G.S. 110-86(7), shall include the criminal history mandatory reporting requirement in all new employee orientation information. Mandatory reporting requires all child care providers and household members who have incurred any pending charges, indictments or convictions (other than minor traffic offenses) since the last qualification letter was issued by the Division to notify the operator of such charges within five business days or before returning to work, whichever comes first. The operator shall notify the Division of any such pending charges, indictments or convictions within one business day of being notified.
- (k) The qualification letter is valid for a maximum of three years from the date of issuance.
- (l) Prior to the expiration date of the qualification letter, the child care provider shall complete and submit the forms listed in Paragraph (a) of this Rule.
- (m) After a child care provider has been qualified, the Division may complete a new criminal history record check at any time when the Department of Social Services or the Division of Child Development and Early Education conducts an investigation that references the child care provider.
- (n) Any individuals who live in the household who have had their 16<sup>th</sup> birthday after the initial licensing of a family child care home, shall complete and submit the forms listed in Paragraph (a) of this Rule to the Division within five business days.
- (o) Child care operators must notify the Division of any new child care providers who are hired or moved into the home within five business days by submitting the form provided by the Division.

*History Note: Authority G.S. 110-85; 110-86(7); 110-90.2; 110-90.2(a); 114-19.5; 143B-168.3; 110-106; S.L. 2012-160, s.1;  
Temporary Adoption Eff. January 1, 1996;  
Eff. April 1, 1997;  
Amended Eff. March 1, 2014; November 1, 2007.*

#### **10A NCAC 09 .2704 CRIMINAL HISTORY RECORD CHECK REQUIREMENTS FOR NONLICENSED CHILD CARE PROVIDERS**

- (a) A nonlicensed child care provider shall submit the following to the local purchasing agency prior to caring for children and receiving subsidy payments:
  - (1) a signed Authority for Release of Information using the form provided by the Division;
  - (2) fingerprint impressions submitted on the form(s) required by the Division and State Bureau of Investigation; and
  - (3) if a prospective child care provider is an out-of-state resident, he or she shall also submit a certified local history from the Clerk of Superior Court in his or her county of residence. This Rule applies to any individuals over 15 years old who move into the household, or any individuals who live in the household who have had his or her 16<sup>th</sup> birthday after the initial approval, including family members and non-family members who use the home either on a permanent or temporary basis as their primary residence. The individual shall submit the items in this Paragraph to the local purchasing agency within five business days of moving into the home or their 16<sup>th</sup> birthday.
- (b) New nonlicensed child care providers shall submit the complete and accurate packet no later than five business days after applying for enrollment as a nonlicensed child care provider of

subsidized child care. If more than three years have elapsed since the criminal history record check has been completed and subsidy funds were not received, then a new criminal history record check must be submitted by the nonlicensed child care provider and any household member over 15 years old.

(c) Any individual over 15 years old, including family members and non-family members who use the home either on a permanent or temporary basis as their primary residence, shall submit all criminal history record check forms as required in Subparagraphs (a)(1) and (a)(2) of this Rule, within five business days of joining the household.

(d) If a nonlicensed child care provider has a criminal history of convictions, pending indictment of a crime, or pending criminal charges, he or she may submit to the Division additional information concerning the conviction or charges that could be used by the Division in making the determination of the child care provider's qualification. The Division shall consider the following in making a decision:

- (1) length of time since conviction;
- (2) whether the nonlicensed child care provider is currently on probation;
- (3) nature of the offense;
- (4) circumstances surrounding the commission of the offense or offenses;
- (5) evidence of rehabilitation;
- (6) number and type of prior offenses; and
- (7) age of the nonlicensed child care provider at the time of occurrence.

(e) The local purchasing agency shall mail the Authority for Release of Information using the form provided by the Division, and fingerprint impressions to the Division no later than five business days after receipt. A copy of the submitted information shall be maintained in the nonlicensed child care provider's file until the notice of qualification is received by the nonlicensed child care provider. The notice of qualification shall be maintained in the nonlicensed child care provider's file. The local purchasing agency shall keep the child care provider's file.

(f) A nonlicensed child care provider shall not receive payment during the period in which the state and federal - criminal history record check is being completed.

(g) Disqualification of a nonlicensed child care provider by the Division shall be reasonable cause for the local purchasing agency to deny payment.

(h) If a nonlicensed child care provider disagrees with the decision of disqualification and files a civil action in district court, the provider may continue to operate as a nonlicensed child care provider, but shall not receive payment during the proceedings. If the determination in the civil action is that the nonlicensed child care provider is qualified, the nonlicensed provider shall receive retroactive payment for the uncompensated care provided during the proceedings.

(i) After a nonlicensed child care provider is qualified, the Division may complete a new criminal history record check at any time when the Department of Social Services or the Division of Child Development and Early Education conducts an investigation that references the child care provider. If the Division requests a new criminal history record check, the child care provider shall complete and submit the forms listed in Paragraph (a) of this Rule to the Division within five business days of the Division's request.

(j) The qualification letter is valid for a maximum of three years from the date of issuance.

(k) Prior to the expiration date of the qualification letter, the nonlicensed child care provider shall complete and submit the forms described in Paragraph (a) of this Rule.



(l) Nonlicensed child care providers and household members must have a valid qualification letter prior to receiving subsidy payments.

*History Note: Authority G.S. 110-90.2; 114-19.5; 143B-168.3; S.L. 2012-160, s. 1;  
Temporary Adoption Eff. January 1, 1996;  
Eff. April 1, 1997;  
Amended Eff. March 1, 2014; December 1, 2007; April 1, 2003.*

## SECTION .2800 - VOLUNTARY RATED LICENSES

### 10A NCAC 09 .2801 SCOPE

- (a) This Section applies to all child care facilities that have achieved a voluntary rated license of two stars or higher or that apply to be assessed for a voluntary rated license of two stars or higher.
- (b) A child care facility is eligible for a voluntary rated license of two through five stars.
- (c) No requirement in any component of a two-star or higher rating shall be less than the requirements for a one-star rating described in G.S. 110-91 and this Chapter. Prior to issuance of an initial two through five-star rating, all requirements in G.S. 110-91 and this Chapter must be in compliance at the time the program is assessed. The requirements for a voluntary rated license of two stars or higher are in addition to the standards found in G.S. 110-91 and this Chapter.
- (d) Nothing in this Section precludes or interferes with issuance of an administrative action as allowed by G.S. 110 and this Chapter.
- (e) As used in this Section a two component license refers to a license issued based on an evaluation of program standards and education standards.

*History Note: Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3;  
Eff. April 1, 1999;  
Amended Eff. July 1, 2010; May 1, 2006.*

### 10A NCAC 09 .2802 APPLICATION FOR A VOLUNTARY RATED LICENSE

- (a) After a licensed child care center or home has been in operation for a minimum of six consecutive months, the procedures in this Rule apply to request an initial two- through five-star rated license or to request that a rating be changed to a two- through five-star rated license.
- (b) The operator shall submit a completed application to the Division for a voluntary rated license on the form provided by the Division.
- (c) An operator may apply for a star rating based on the total number of points achieved for each component of the voluntary rated license. In order to achieve a two- through five-star rating, for a two component license the minimum score achieved must be a least four points as follows:

TOTAL NUMBER OF POINTS	RATING
4 through 6	Two Stars
7 through 9	Three Stars
10 through 12	Four Stars
13 through 15	Five Stars

- (d) Facilities with a four or five-star rated license that are licensed to serve four-year-old children must implement a curriculum as defined in 10A NCAC 09 .0102 with their four year olds. This requirement must be met in any licensed child care facility.
- (e) A Division representative shall assess the facility requesting a voluntary rated license to determine if all applicable requirements have been met to achieve the score for the requested star rating. The assessment may include a review of Division records and site visits.
- (f) The Division shall provide for Infant/Toddler Environment Rating Scale Revised Edition, Early Childhood Environment Rating Scale - Revised Edition, School-Age Care Environment

Rating Scale, or Family Child Care Environment Rating Scale - Revised Edition assessments to be completed, as appropriate for the program, free of charge to operators requesting an initial three or more points for program standards.

(g) Upon completion of the Division's assessment:

- (1) If the assessment indicates all the applicable requirements to achieve the score for the requested rating have been met, the Division shall issue the rating.
- (2) If the assessment indicates all the applicable requirements to achieve the score for the requested rating are not met, the Division shall notify the operator of the requirements that were not met and the requested voluntary rating shall not be issued. The operator may:
  - (A) Accept the rating for which the Division has found the operator to be eligible;
  - (B) Withdraw the request and reapply when the identified requirements to achieve the score for the requested rating have been met; or
  - (C) Appeal the denial of the requested rating as provided in G.S. 110-94.

*History Note: Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s.10.7(b);  
Eff. April 1, 1999;  
Amended Eff. September 1, 2012; July 1, 2010; May 1, 2006.*

**10A NCAC 09 .2814 PROGRAM STANDARDS FOR A RATED LICENSE FOR FAMILY CHILD CARE HOMES**

**10A NCAC 09 .2815 EDUCATION STANDARDS FOR A RATED LICENSE FOR FAMILY CHILD CARE HOMES**

**10A NCAC 09 .2816 COMPLIANCE HISTORY STANDARDS FOR A RATED LICENSE FOR FAMILY CHILD CARE HOMES**

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;  
Eff. April 1, 1999;  
Amended Eff. April 1, 2003;  
Recodified from Rule .2805 Eff. May 1, 2006 (Rule .2813);  
Recodified from Rule .2806 Eff. May 1, 2006 (Rule .2814);  
Recodified from Rule .2807 Eff. May 1, 2006 (Rule .2815);  
Recodified from Rule .2808 Eff. May 1, 2006 (Rule .2816);  
Repealed Eff. July 1, 2010.*

**10A NCAC 09 .2827 EDUCATION STANDARDS FOR OPERATORS FOR A RATED LICENSE FOR FAMILY CHILD CARE HOMES**

- (a) This Rule applies to evaluating family child care homes with regards to the operator.
- (b) To achieve two points, the operator shall have completed:
  - (1) Four semester credit hours in early childhood education or child development (not including the North Carolina Family Child Care Credential coursework); or

- (2) Five years of verifiable early childhood work experience and eight additional clock hours annually of in-service training.
- (c) To achieve three points, the operator shall have completed the North Carolina Family Child Care Credential, its equivalent or a Level I or higher certification on the ECE scale.
- (d) To achieve four points, the operator shall have completed a Level II or higher certification on the ECE scale; or
  - (1) Have six semester credit hours in early childhood education or child development (not including the North Carolina Family Child Care Credential coursework); and
  - (2) Have the North Carolina Family Child Care Credential, its equivalent, or a Level I or higher certification on the ECE scale.
- (e) To achieve five points, the operator shall have completed a Level IV certification on the ECE scale and have one year verifiable early childhood work experience; or have
  - (1) The North Carolina Family Child Care Credential, its equivalent, or a Level I or higher certification on the ECE scale; and
  - (2) 12 semester credit hours in early childhood education or child development (not including the North Carolina Family Child Care Credential coursework); and
  - (3) Either:
    - (A) Two of 12 semester hours in early childhood education in child care administration; or
    - (B) One year of verifiable early childhood work experience.
- (f) To achieve six points, the operator shall have completed a Level VI certification on the ECE scale and have one year verifiable childhood work experience; or have
  - (1) The North Carolina Family Child Care Credential, its equivalent, or a Level I or higher certification on the ECE scale; and
  - (2) 18 semester credit hours in early childhood education or child development (not including the North Carolina Family Child Care Credential coursework); and
  - (3) Either:
    - (A) Five of the 18 semester hours in early childhood education are in child care administration; or
    - (B) Two years of verifiable early childhood work experience.
- (g) To achieve seven points, the operator shall have completed:
  - (1) An A.A.S. degree in any major with a minimum of 12 semester credit hours in early childhood education/child development coursework and two years of full-time verifiable early childhood work experience; or
  - (2) An A.A.S. in early childhood education/child development and 18 months of full-time verifiable early childhood work experience; or
  - (3) A Level VI certification on the ECE scale and two years of experience.

*History Note: Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3;  
 Eff. May 1, 2006;  
 Amended Eff. August 1, 2012.*

**10A NCAC 09 .2828 PROGRAM STANDARDS FOR A RATED LICENSE FOR  
FAMILY CHILD CARE HOMES**

- (a) This Rule applies to evaluating the program standards for a two component rated license for family child care homes.
- (b) To achieve two points for program standards, the operator shall have written operational policies and procedures that include information about meal and snack practices, daily activities, parent involvement, health and safety practices, infection control/ill child exclusion/inclusion, and business practice.
- (c) To achieve three points for program standards, the operator shall:
  - (1) Have written operational policies and procedures that include all information listed in Paragraph (a) of this Rule.
  - (2) Have an average score of 4.0 or higher on the Family Day Care Rating Scale.
- (d) To achieve four points for program standards, the operator shall:
  - (1) Have written operational policies and procedures that include all information listed in Paragraph (a) of this Rule.
  - (2) Have an average score of 4.25 or higher on the Family Day Care Rating Scale.
- (e) To achieve five points for program standards, the operator shall:
  - (1) Have written operational policies and procedures that include all information listed in Paragraph (a) of this Rule.
  - (2) Have an average score of 4.5 or higher on the Family Day Care Rating Scale.
- (f) To achieve six points for program standards, the operator shall:
  - (1) Have written operational policies and procedures that include all information listed in Paragraph (a) of this Rule;
  - (2) Have an average score of 4.75 or higher on the Family Day Care Rating Scale; and
  - (3) Of the five preschoolers allowed to be enrolled, no more than four children shall be under one year of age.
- (g) To achieve seven points for program standards, the operator shall:
  - (1) Have written operational policies and procedures that include all information listed in Paragraph (a) of this Rule;
  - (2) Have an average score of 5.0 or higher on the Family Day Care Rating Scale; and
  - (3) Of the five preschoolers allowed to be enrolled, no more than three children shall be under one year of age.

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;  
Eff. May 1, 2006;  
Recodified from Rule .2821 Eff. August 1, 2012.*

**10A NCAC 09 .2829 QUALITY POINT OPTIONS**

Operators may earn one additional quality point toward a voluntary rated license as described in Rule .2802 of this Section as follows:

- (1) Education options:
  - (a) Completing additional education coursework as follows:
    - (i) An Infant and Toddler Certificate, by 75 percent of infant and toddler teachers,

- (ii) An A.A.S. or higher in early childhood education or child development by 75 percent of teachers,
  - (iii) A BA or BS or higher in early childhood education or child development by 75 percent of lead teachers,
  - (iv) An A.A.S. or higher in early childhood education or child development by all lead teachers,
  - (v) A North Carolina School Age Care Credential or have completed six semester hours in school-age coursework by 75 percent of group leaders, or
  - (vi) An Infant and Toddler Certificate or has a BA or BS or higher in early childhood education or child development by a family child care home provider;
- (b) Completing 20 additional annual in-service training hours for full-time lead teachers and teachers, and staff working part-time completing additional hours based on the chart in Rule .0707(c) of this Chapter;
- (c) Completing 20 annual in-service training hours for family child care home providers in addition to those required by Rule .1705(b)(5) of this Chapter;
- (d) 75 percent of lead teachers and teachers having at least 10 years of documented and confirmed by the Division early childhood work experience;
- (e) All lead teachers and teachers having at least five years of documented and confirmed by the Division of early childhood work experience employed by no more than two different employers;
- (f) Having a combined turnover rate of 20 percent or less for the administrator, program coordinator, lead teachers, teachers and group leader positions over the last 12 months if the program has earned at least four points in education;
- (g) In a stand alone school age program, 75 percent of group leaders having at least five years verifiable school-age work experience employed in no more than two different school-age settings; or
- (2) Programmatic options:
  - (a) Using a curriculum as defined in Rule .0102(7) of this Chapter. This programmatic option is not available to facilities that are required to use an approved curriculum in accordance with Rule .2802(d) of this Section;
  - (b) Having group sizes decreased by at least one child per age group from the seven point level as described in Rule .2818(c) of this Section;
  - (c) Having staff/child ratios decreased by at least one child per age group from the seven point level as described in Rule .2818(c) of this Section;
  - (d) Meeting at least two of the following three programs standards:
    - (i) Having enhanced policies which include the following topics: field trip policy, staff development plan, medication administration, enhanced discipline policy, and health rules for attendance;
    - (ii) Having a staff benefits package that offers at least four of the following six benefits: paid leave for professional development, paid planning time, vacation, sick time, retirement or health insurance; or

- (iii) Having evidence of an infrastructure of parent involvement that includes at least two of the following: parent newsletters offered at least quarterly, parent advisory board, periodic conferences for all children, or parent information meetings offered at least quarterly;
- (e) Completing a 30 hour or longer business training course by a family child care home provider;
- (f) Completing a business training course and a wage and hour training by the center administrator that is at least 30 hours total;
- (g) Restricting enrollment to four preschool children in a family child care home; or
- (h) Reducing infant capacity by at least one child from the seven point level for a family child care home as described in Rule .2828(g)(3) of this Section.

*History Note: Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s. 10.7(b);  
Eff. May 1, 2006;  
Amended Eff. December 1, 2006;  
Recodified from Rule .2823 Eff. August 1, 2012;  
Amended Eff. July 1, 2015; September 1, 2012.*

#### **10A NCAC 09 .2830 MAINTAINING THE STAR RATING**

(a) A representative of the Division may make announced or unannounced visits to facilities to assess on-going compliance with the requirements of a star rating after it has been issued. When the Division representative documents violations with the standards that determine a rating, the representative may take one or more of the following actions:

- (1) Advise the operator to submit written verification that the violation(s) have been corrected.
- (2) Return to the facility for an unannounced visit at a later date to determine if compliance has been achieved.
- (3) Recommend an Environmental Rating Scale assessment be conducted.
- (4) Recommend a complete reassessment of requirements of the star rating issued to the facility.
- (5) Recommend that the star rating be reduced.
- (6) Recommend administrative action in accordance with G.S. 110 and this Subchapter.

(b) If changes occur at a facility which result in the operator not complying with the standards in this Section for the star rating issued, the operator shall correct the noncompliance within 30 days. If the operator does not correct the noncompliance within 30 days, the operator shall notify the Division. Based upon the information obtained, the Division may take any of the actions described in Paragraph (a) of this Rule.

(c) A complete assessment of requirements for a voluntary rated license of two stars or higher shall be conducted at least once every three years. The Division shall provide for one evaluation of program standards using the environment rating scales referenced in Rule .2802(e) free of charge once every three years when reassessing the ratings of operators with three to five points for program standards.

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;  
Eff. April 1, 1999;  
Recodified from Rule .2809 Eff. May 1, 2006;  
Recodified from Rule .2824 Eff. August 1, 2012.*

**10A NCAC 09 .2831 HOW AN OPERATOR MAY REQUEST OR APPEAL A  
CHANGE IN RATING**

- (a) An operator may request a change in the star rating by following the procedures in Rule .2802 of this Section.
- (b) After an initial three- through five-star rating is issued, the Division shall provide for one evaluation of program standards using the environment rating scales referenced in Rule .2802(e) of this Section during each three year period thereafter at no cost to the operator. An operator may have extra rating scale assessments as referenced in Rule .2802(e) of this Section performed at his or her own expense in addition to the free one performed by the Division. The additional rating scale assessments shall be completed by individuals approved by the Division to perform them. Approval shall be based upon the individual's successful completion of training designated or authorized by the authors of the environment rating scales.
- (c) An operator may appeal the reduction of a star rating as provided in G.S. 110-94.

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;  
Recodified from Rule .2810 Eff. May 1, 2006;  
Amended Eff. May 1, 2006;  
Recodified from Rule .2825 Eff. August 1, 2012.*